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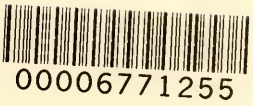
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Capital Punishment

in

North Carolina

SPECIAL BULLETIN NUMBER 10

Issued By

THE N. C. STATE BOARD OF CHARITIES AND PUBLIC WELFARE

KATE BURR JOHNSON, *Commissioner*

RALEIGH, N. C.

1929

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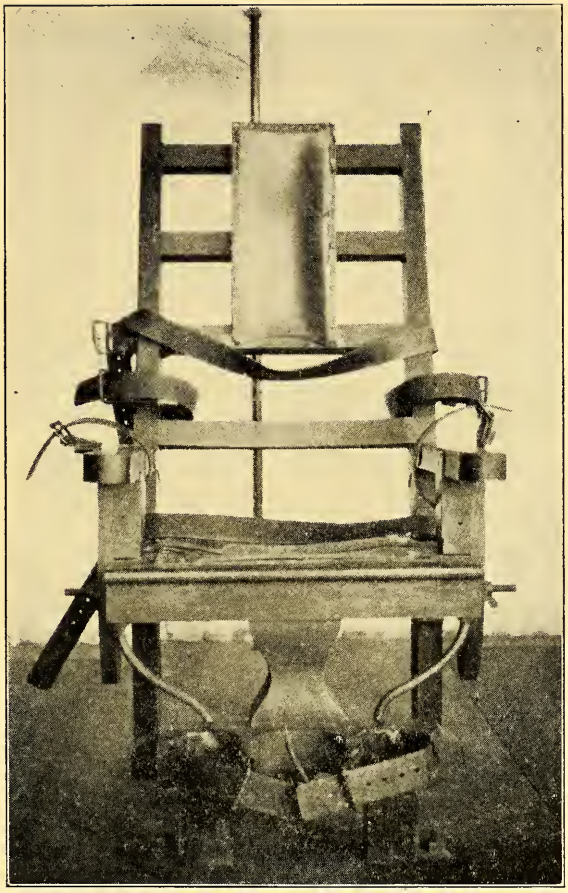

THE ELECTRIC CHAIR AT THE STATE PRISON, RALEIGH, IN WHICH EXECUTIONS TAKE PLACE

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INTRODUCTION

The purpose of this study is to discuss the infliction of the death penalty in North Carolina, particularly during the 19 years since the electric chair was established as the means of executing capital offenders in this State.

There is given here a brief resumé of the history of punishment by death in North Carolina, showing the gradual restriction of the application of the extreme penalty from about 20 crimes in Colonial days to four at present. There are presented figures on the number of persons convicted of capital crimes since the electric chair was instituted here, their distribution by race, crime and disposition of case, together with analysis of their educational, marital and occupational status and age. The general trends in criminal convictions in North Carolina during this period are shown, with figures for each biennium, and as a background, a sketch of the penal system in the State. In one chapter are quoted newspaper reports of several recent electrocutions. The related subjects of lynching and mob violence also are treated, and an example given of the operation of executive clemency to secure justice in a capital case. The latter part of the study is devoted to 26 detailed case histories of persons sentenced to death for capital crimes in North Carolina during the last few years.

The primary object of the study is to present to the people of North Carolina, and to the State's judicial and penal officers and social workers material which hitherto has not been conveniently available and which, it is hoped, they will find valuable in its bearing on the grave problem of capital crime and the State's method of dealing with those offenders who are guilty of it. The facts presented here are eloquent in themselves. These facts strongly suggest the necessity of further serious study of the subject of capital punishment and other social problems with which it is related, especially that of mental deficiency. This study does not pretend to be exhaustive, but is suggestive, rather than conclusive.

A visit to the death row in the State Prison at Raleigh is an experience which every citizen of the State should have at least once. The prisoners in the death row are there because the people of North Carolina wish them to be or are indifferent to or ignorant of the social factors responsible for their situation. That many persons condemned to death eventually receive commutation of sentence does not lessen the responsibility of the individual citizen in regard to the death penalty. As uncomfortable as it may make him, he should be willing to face the concrete results of whatever attitude, or lack of one, he has had toward capital punishment as it is found in that depressing group at Raleigh.

It is hardly conceivable that a person can have the experience of such a visit without asking himself some very pertinent questions. He will see among these condemned men the poor and the ignorant—for the affluent and educated are seldom found in the death cells—the feebleminded, the insane and the psychopathic. By talking with them he will discover that some of them are so simple in mind that they have little conception of the seriousness of their situation, or the significance of the electric chair only a few yards away, as the one who naively remarked, "This 'lectrcushion's shorely gwine teach me a lesson". He will find that many of them are illiterate, that others have no memory of a home, a church, a school or a community whose influence might

have led the wandering feet of childhood along a path that had a happier end. He will see that, if they are not also the victims of mental deficiency, these are for the most part the children of ignorance and neglect. He may come to the conclusion that the end, as bad as it is, is not the worst aspect of their situation, and that death is not the epitome of punishment.

He may be led to wonder whether there may not be children in his own community who are starting on the same path, and if so, whether he cannot do something about it. And if these impressions give him a feeling of personal responsibility, the purpose of this study will have been largely accomplished. For its prime object is not an arraignment of capital punishment per se, but an effort to present to the people of North Carolina a true picture of what capital punishment means in this State. The North Carolina State Board of Charities and Public Welfare hopes thereby to stimulate a sane, popular interest in a tragic human problem, from which, it is hoped, will come an enlarged social program of prevention. If the racial aspect of this study seems conspicuous, it is because it inevitably enters largely into this question in a Southern State.

To Lawrence A. Oxley, Director of the Division of Work among Negroes of the State Board of Charities and Public Welfare, is due chief credit for the collection of the material, most of which is publicly presented here for the first time. Grateful acknowledgment is made to the officials of the State Prison at Raleigh for their cooperation in gathering the prison statistics used as part of this study. Members of the Institute for Research in Social Science of the University of North Carolina rendered valuable assistance in the preparation of the study, as did members of the State Historical Commission and Mrs. Lillian B. Griggs, Secretary and Director of the North Carolina Library Commission. Further acknowledgment is made of the assistance given by Assistant Attorney General Frank Nash, State Pardon Commissioner Edwin B. Bridges, R. Eugene Brown and Dr. Harry W. Crane, of the Staff of the State Board of Charities and Public Welfare and Col. F. A. Olds and Mr. A. R. Newsome of the N. C. Historical Commission.

The study was edited by Nell Battle Lewis who rewrote and rearranged most of the material, drew the graphs and collected part of the data presented in the historical sketch.

CHAPTER I

HISTORICAL SKETCH

"Within the past 28 years more than 3,000 persons have been sent to the scaffold or the electric chair in the United States, and at the present time we are putting men to death to atone for their crimes at the rate of about 100 a year." (Raymond T. Bye in *Capital Punishment in the United States.*)

In North Carolina, capital punishment, or the infliction of the penalty of death for crime under the sentence of some properly constituted authority, was established when the colonists came over to this country from England. They brought with them the English criminal law as it was then in force, which included the common law of crimes, together with the existing statutory modifications. Much of the English common law continues in force in this State, as defined by Section 970 of the Consolidated Statutes.

In their first charter the Lords Proprietors of North Carolina were authorized "in person and by their deputies, etc., to make laws and to execute . . . . by imposition of penalties, imprisonment, or any other punishment, yea, if it be needful and the quality of the offense requires it, by taking away members and life . . . . provided, nevertheless, that the said laws be consonent with reason, and as near as may be conveniently agreeable to the laws and customs of this our Kingdom of England".

Gruesome pictures of old English methods of inflicting capital punishment have come down to us, and the law books furnish corroboration of the most sensational fiction. Blackstone says that capital punishment "consists generally in being hanged by the neck till dead, though in very atrocious crimes other circumstances of terror, pain or disgrace are superadded; in high treason affecting the King's person or government, embowelling alive, beheading and quartering; and in murder a public dissection". An old form of sentence concludes "and there be hanged by the neck until he be dead, and that afterwards his body be dissected and anatomized".

An example of the old English form of capital punishment for treason is found in the following judgment awarded in 1746. (English State Trials, Vol. XVIII, p. 502):

"The judgment of the law is and this high court doth award:

"That you, William, earl of Kilmarnock, George, earl of Cromertie, and Arthur, lord of Balmerino, and every one of you, return to the prison of the Tower, from whence you came; from thence you must be drawn to the place of execution; when you come there you must be hanged by the neck, but not till you are dead; for you must be cut down alive; then your bowels must be taken out, and burnt before your faces; then your heads must be severed from your bodies and your bodies must be divided each into four quarters and these must be at the King's disposal. And God Almighty be merciful to your souls."

The old law was not satisfied even by such violent measures, but upon every judgment of outlawry or of death, for treason or felony, a man was said to be attainted, attinctus, stained or blackened. The consequences of this condition were forfeiture of property and "corruption of blood", which meant forfeiture of rights of inheritance. This was

extended by "bills of attainder", special acts of attaint passed by Parliament in particular cases not embraced by the general law.

Burning at the Stake

Both in law and practice North Carolina was the daughter of her English mother. In the early records of this State there are several instances of burning at the stake.

Prior to 1793 slaves were tried "without the solemnity of a jury" by three justices and four freeholders of the county, and sentence was passed by these persons "according to their discretion, as the nature of the crime shall require". (Act of 1741, Iredell's Revisal, Ch. XXIV, Sec. 48.)

At such a trial the following judgment was rendered in Duplin County in 1787 and may be found in the old court records:

"At a special court begun and held at the Court House in Duplin County on Thursday the 15th day of March in the Year of our Lord 1787, for the immediate Tryal of Darby and Peter two Negro Slaves the Property of the late William Taylor, Esq., now committed and to be tryed for the murder of the said William Taylor their Master, which court being summoned and convened by the Sheriff of the said County and being duly Qualified according to law, were Present, to wit:

Thomas Routledge
Joseph Dickson
James Gillespie
} Esquires Justices

Lewis Thomas
James Middleton, Sr.
Isaac Hunter
Alexander Dickson
} Freeholders. All being owners of slaves and unexceptionable according to law.

"The said Negro man Darby being brot before the Court did Confess that he did on the Thirteenth day of this Instant Month felloniously Maliciously and Willfully murder his said Master William Taylor by striking him on the head with an ax into his Brains of which wounds his Master instantly Died whereupon the Court doth pass this Sentence in the word following to wit that the said Negro Man Darby be immediately committed to Gaol under a good Guard and that on Tomorrow between the Hours of one and four o'clock in the afternoon he be taken out thence and tied to a Steak on the Court House lott and there burned to Death and to Ashes and his ashes strewed upon the Ground and that the Sheriff see this Order Executed.

"The said Negro slave Peter a boy about fourteen years of age being brought before the Court and examined did Confess that he was present when his Master the said William Taylor was murdered and that he did aid and assist his Brother the aforesaid Darby in committing the said Murder, the court having taken into consideration the youth of the said Peter and considering him under the Influence of his said older Brother Darby, have thought proper to pass this sentence in the following words to wit:

"That the said Negro boy Peter be committed to the Gaol and there to Remain under a good Guard, till Tomorrow, and then between the Hours of one and four o'clock he be taken thence and tied to a Post on the Court House Lott, and there to have one half of Each of his Ears cut off and be branded on each cheek with the letter M and Receive one

hundred lashes well laid on his bare back and that the Sheriff see this order executed.

"To which sentences the Court have hereto subscribed their Names.

THOS. ROUTLEDGE
JOSEPH DICKSON
JAMES GILLESPIE
LEWIS THOMAS
JAMES MIDDLETON
ISAAC HUNTER
ALEXANDER DICKSON.

"Test W. DICKSON, *C. C.*"

In November, 1780, a Negro slave girl in Johnston County was convicted of poisoning the father and family of her master and was sentenced "to be taken to the ground of the court green and there be burned to death by a stake".

In 1762 also there is record of a Negro slave in Duplin County having been burned to death. The Sheriff who applied the fire received 50 pounds for doing so. These two cases are in the old court records.

In New Hanover County, a Negro slave convicted of robbery in February, 1768, after having been hung was beheaded "and his head affixed up upon the point near Wilmington." This is cited in The Biographical History of North Carolina.

There are frequent instances of unmentionable mutilations in the old records and in one case Dr. Anthony Newton was paid for amputating the hand of John Burnett, "a notorious felon". The nature of Burnett's offense which was thus punished is not stated. Public whippings, confinement in the pillory, branding and cutting off the ears also were common.

Crimes Formerly Punished by Death-

Numerous crimes were punished by death prior to 1868 when the new State Constitution limited the infliction of the death penalty to persons convicted of murder, arson, rape and burglary in the first degree. The Revised Statutes of North Carolina of 1836-37 (Ch. XXXIV, p. 191) list the following crimes as punishable by death without benefit of clergy: murder, burglary, arson (of dwellings, shops, warehouses, public buildings, public bridges and private toll bridges) highway robbery, fighting a duel in which one of the parties had been killed, castration, rape, crime against nature, house-breaking in daylight when goods amounting to $2.00 were stolen; malicious maiming (second offense), breaking prison (when the person had been imprisoned for a capital crime), a slave's embezzlement of his master's goods to the value of $10.00, stealing slaves, conveying free Negroes out of the State to sell them, circulating seditious literature calculated to incite slaves to insurrection, and inciting slaves to insurrection by word of mouth (both, second offense). By the act of 1841 a conspiracy of three or more slaves constituted a rebellion and was punishable by death (Iredell's Revisal, Ch. XXIV, Sec. 47). Though killing a slave ordinarily was murder punishable by death, escaped slaves were outlawed and might be killed without penalty, when public proclamation had been issued against them.

The penalty for bigamy, as set by the General Assembly of 1790, was death with benefit of clergy, unless the first spouse had been absent for seven years across the sea or was living, unknown, in distant parts. Divorce also was an exception. When benefit of clergy was granted in cases of bigamy, the court at its discretion might sentence the offender to be publicly whipped, fined, imprisoned and branded with the letter

B on the left cheek. Benefit of clergy for this crime was taken away in 1809 but was restored in 1829. Benefit of clergy was also allowed to persons convicted of horse-stealing. Punishment for felonies under this benefit usually meant confinement in the pillory, public whipping, branding, fine and imprisonment, any or all.

"Benefit of clergy" originally denoted the exemption accorded to clergymen from the jurisdiction of the secular courts. Later it came to mean a privilege of exemption from the punishment of death allowed to such persons as were clerks, or who could read. This privilege of exemption from capital punishment was anciently allowed to clergymen only, but afterwards to all who were connected with the church, and still later to all persons who could read, whether ecclesiastics or laymen. When a person had claimed this exemption, which was known as "praying his clergy", he was given a psalm to read as a test of his clerical character. Usually this psalm was the 51st which begins, "Have mercy upon me, O God, according to thy loving-kindness: according unto the multitude of thy tender mercies blot out my transgressions".

The privilege of benefit of clergy operated greatly to mitigate the extreme rigor of the old criminal laws, but it was found to involve such gross abuses that the English Parliament began to enact that certain crimes should be felonies "without benefit of clergy". It was abolished in England during the reign of George IV, and for capital crimes against the United States by Congress in 1790 after which at different times it was abolished by the States. It existed in North Carolina well into the eighteenth century. But its abolition is noted in the Revised Code of North Carolina of 1854.

Attempted Reform

An interesting, if abortive, attempt at reform of the punishment for at least one capital crime occurred in this State in 1786 when the General Assembly declared that "Whereas it is inconsistent with the policy of a well-regulated government that the crime of horse-stealing should be subject to a punishment as that which is inflicted for the most atrocious offense of which human nature is capable, and whereas from the punishment in its nature and gradation bearing no proportion to the guilt, the persons injured from compassion forbear to prosecute, juries from the same motive, too often acquit and if convictions are had, pardons are extended to the guilty, whereby the present mode of punishment is found inadequate to the evil" and enacted that for the first offense of horse-stealing the convicted person should stand one hour in the pillory, be publicly whipped on the bare back with not more than 39 lashes well laid on, have both his ears nailed to the pillory and then cut off, and be branded "in a plain and visible manner" on the right cheek with the letter H, and on the left with the letter T, three-quarters of an inch long and half an inch wide. But the penalty of death without benefit of clergy was retained for the second offense (State Records of North Carolina, Laws, 1777-1788, Vol. XXIV, p. 795).

Perhaps this amelioration of punishment for the horse-thief, slight though it was, was considered sentimental at that time, for the General Assembly of 1790 re-enacted the death penalty without benefit of clergy for the first offense of horse-stealing, declaring in regard to the reform four years earlier that "the present method of punishment is not attended with the salutary effect intended by the Legislature". (State Records of N. C., Laws 1788-90, Vol. XXV, p. 74.)

In 1817 the first offense of horse-stealing was made "clergiable"; by the Revisal of 1836-37 benefit of clergy is allowed for the second offense.

There had been other slight modifications of punishments for capital crimes in the early days. By the act of 1754 malicious maiming punishable by death included cutting off or disabling the tongue, putting out an eye, slitting or biting or cutting off nose or lip, "biting or cutting off or disabling any limb or member of any subject of his majesty". (Potter's Revisal, Ch. 56, p. 194.) The General Assembly of 1791 made the first offense punishable by the pillory, public whipping, etc., and limited the offense to cutting out or disabling the tongue or putting out an eye. By the same act, maiming of nose, lips, or limbs was punishable by imprisonment for six months and fine at the discretion of the court.

The penalty for counterfeiting, which originally had been death without benefit of clergy, also was modified, the Legislature of 1779 setting confinement in the pillory, branding, amputating the ears, whipping and imprisonment as the punishment for the first offense, but retaining the penalty of death without benefit for the second. (Potter's Revisal, Ch. 158, p. 399.) The death penalty for counterfeiting was abolished in 1811, the penalty for the first offense being public whipping, and for the second, whipping, imprisonment and branding with the letter C.

Between 1827 and 1854 there was further modification. In the Revised Code of North Carolina of 1854 we find that the death penalty for housebreaking in daylight when goods amounting to $2.00 had been stolen was no longer inflicted, but applied only to breaking into a dwelling at night with intent to commit a felony. Bigamy was no longer punished by death, but by fine, imprisonment and branding. The death penalty was not inflicted upon servants who had embezzled their master's goods to the value of $10.00, but those embezzling goods valued as high as $5.00 were publicly whipped and imprisoned at the discretion of the court. Forgery was punished by confinement in the pillory, whipping, fine and imprisonment of not less than six months nor more than three years, at the discretion of the court. Burning of bridges or town buildings which did not contain archives was changed from a capital felony to a misdemeanor. Horse-stealing was no longer a capital crime. Benefit of clergy had been abolished, with the stipulation that none should suffer death except for offenses which previously had been excluded from this benefit.

When we recall that about 20 crimes were punished by death in Colonial North Carolina and about 14 as late as 1854, we realize what a marked advance in the humane treatment of felons is represented by the provision of State Constitution of 1868 which limits the infliction of the death penalty to persons convicted of four crimes, murder, rape, arson and burglary in the first degree. The gradual evolution of capital punishment in North Carolina, as elsewhere, has been in the direction of restriction of the death penalty. In continuation of this trend, it is possible that in time this form of punishment may be abolished in this State without arousing adverse public opinion.

Provision for Private Executions

By the law of 1868 and subsequent amendments provision was made for private executions, as follows:

"As the ends of justice, public morals and the preservation of order, demand that the execution of all capital offenders should be made private and invested with the solemnity appropriate to the final act of penal law, any sheriff on whom shall devolve the execution of a sentence of death on a public offender, shall be required to provide for the execution of such criminal within the jail-yard enclosure, and as

much removed from public view as the means within his control will allow: Provided, that, for reasons which may be deemed good and sufficient, the board of commissioners may otherwise order.

"The sheriff, after having provided for the private execution of the criminal, may admit by ticket, in addition to the required guard, two physicians and necessary assistants, not more than 36 nor less than 18 respectable citizens, to witness for the State, the due observance of the law.

"In all cases of affirmance of a sentence for a capital felony the clerk of the Superior Court, at the same time that the decision of the Supreme Court is certified down to the Superior Court, shall send a duplicate thereof to the Governor, who shall immediately issue his warrant under the great seal of the State to the sheriff of the county in which the appellant was sentenced, directing him to execute the death penalty on a day specified in date of said warrant, not less than 30 days from the date of said warrant but this shall not deprive the Governor of the power to pardon or reprieve the defendant or to commute the sentence." (Laws of N. C., 1868, Chs. 21, 22, 1, 2, 3; Battle's Revisal, 1873, Ch. 32, ss. 156, 157; Laws of N. C., 1879, Ch. 221, s. 1; The Code of N. C., 1883, Vol. I, Ch. 26, ss. 1243, 1244; Laws of North Carolina 1887, Ch. 192, s.c.; Revisal of N. C., 1905, Vol. I, ss. 3284, 3285, 3286.)

Despite this provision for privacy, executions by hanging continued public in North Carolina until 1879.

The Last Hanging

The following quotation from *The Raleigh News and Observer* of March 12, 1910, describes the last hanging which took place in North Carolina, and the circumstances leading up to it:

"The last legal hanging in the old North State took place at Elizabethtown at high noon today when Henry Spivey, colored, paid the death penalty for the murder of his father-in-law, Frank Shaw, near Abbottsburg, this county, in the fall of 1908.

"Spivey was tried and convicted at the March term of court 1909, and sentenced to be hanged on May 11th, following. He had been respited by the Governor twice and had high hopes of further respite, if not reprieve to life imprisonment. At his trial he had the service of nine attorneys and they have worked diligently to save his neck.

"Judge Adams who tried the case refused to sign a petition for life imprisonment, so did Solicitor Sinclair, and only two of the trial jury would sign for reprieve.

"Sheriff Clark has had his prisoner guarded closely day and night knowing the character of his man. He had tried to escape from the jail here after his conviction and was taken to the State Penitentiary for safe-keeping and gave the officers of that institution lots of trouble.

"The gallows today was enclosed by a high board fence and an inclosure about it was roped off. Spivey seemed brave and walked to the gallows, but just as the black cap was being adjusted he began to sink and with quick presence of mind Sheriff Clark pulled the lever. It was ten minutes before the attending physician pronounced the doomed man dead.

"Although Spivey had considerable property at the time of his arrest and had handled thousands of dollars as a gambler, at which business he was an expert, his body was buried by the county authorities, at the county poor farm, his wife refusing to have anything to do with it.

"The crowd dispersed in an orderly manner. No trouble was manifested or expected, though armed guards were in attendanse".

The First Electrocution

In 1909 the method of inflicting the death penalty was changed in North Carolina, and the General Assembly of that year substituted death by electrocution at the State Prison at Raleigh in place of hanging. The first to suffer the death penalty by electrocution in this State was Walter Morrison, a 37-year old Negro of Robeson County, who had been convicted of rape on Polly Rodgers, a Croatan woman. He was executed on March 18, 1910.

Morrison was one of the State's most dangerous criminals and his death sentence followed a long series of crimes. As reported in *The Raleigh News and Observer* of March 19, 1910, the chief events of his criminal career were as follows:

At the April, 1898, term of Robeson County court he entered a nolo contendere on a charge of assault, and judgment was suspended on the payment of costs.

At the October term, 1898, he was found guilty of an assault with intent to commit rape and was sentenced to five years in the State prison.

At the November term, 1903, he plead guilty of housebreaking and judgment was suspended on payment of the costs.

At the July term, 1905, he plead guilty of larceny and was sentenced to twelve months on the roads. While waiting to be carried to the chain gang, he broke jail.

At the November term, 1905, a true bill for larceny was returned against him and a capias issued, but he could not be found.

At the same term, a true bill for escape was returned against him. Later he was captured and put on the chain-gang to serve out his original term. After serving three days, he escaped, but was later recaptured.

It was on the day of his discharge, May 27, 1909, that Morrison committed rape on Polly Rodgers, the crime for which he was electrocuted. On his way home from the chain-gang he enticed this woman, who had her baby in her arms, into the woods, by telling her that a man resembling her husband lay dying there.

Tried in July, 1909, he was sentenced to be electrocuted on September 10, 1909, but was reprieved four times because of delay in installing the new electric chair at the State Prison. The later dates set for his electrocution were October 15, 1909, November 12, 1909, January 14, 1910, and March 18, 1910. On March 3, 1910, an application for commutation of his sentence was made, but was refused a week later.

Since the electrocution of Morrison, 94 persons have met death in the electric chair in North Carolina, 81 Negroes and 13 whites.

Limitation of Witnesses

Despite the legal limitation of witnesses allowed at an electrocution to "twelve respectable citizens in addition to the warden or deputy warden, prison physician, counsel and relatives of the prisoner, and a minister of the gospel" (C. S. 4660, 1919), at the electrocution of McIver Burnett in 1924 a crowd of 82 persons, ten of them women, jammed themselves into the death chamber at the State Prison. One of the women present was the woman upon whom the condemned man had committed rape. These circumstances led the General Assembly of 1925 to enact the following statute further limiting the number of witnesses allowed to attend an electrocution:

"Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been pronounced to be electrocuted as provided by this article and all amendments thereto.

The electrocution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons, who shall cause the person, convict or felon against whom the death sentence has been pronounced to be electrocuted as provided by this article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in his stead; the surgeon or physician of the penitentiary and six respectable citizens, the counsel and any relative of such person, convict or felon and a minister or ministers of the gospel may be present if they so desire, and the board of directors of the penitentiary may provide for and pay the fee for each execution not to exceed thirty-five dollars." (Laws of N. C. 1925 c. 123, amending s. 4660 of the Consolidated Statutes.)

Statutes on Capital Crimes

There follow the provision of the Constitution of North Carolina declaring which crimes shall be punishable by death, together with the statutes defining these four capital felonies, murder, rape, burglary and arson, and the statutes legalizing death by electrocution as the punishment therefor, and describing the manner and place of execution.

Constitution of N. C. Art. XI, Sec. 2. The object of punishment being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary and rape and these only may be punishable with death, if the General Assembly shall so enact.

C.S. 4200. **Murder in the first and second degree defined: Punishment.** A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death. All other kinds of murder shall be deemed murder in the second degree, and shall be punished with imprisonment of not less than two nor more than thirty years in the State Prison.
Rev., s. 3631; 1893, c. 85; 1893, c. 281.

C.S. 4204. **Punishment for rape.** Every person who is convicted of ravishing and carnally knowing any female of the age of twelve years or more by force and against her will, or who is convicted of unlawfully and carnally knowing and abusing any female child under the age of twelve years, shall suffer death.
Rev., s. 3637; Code, s. 1101; R. C., c. 34, s. 5; 18 Eliz., C. 7; 1868-9, C. 167, s. 2; 1917, c. 29.

C.S. 4232. **First and second degree burglary.** There shall be two degrees in the crime of burglary as defined at the common law. If the crime be committed in a dwelling-house, or in a room used as a sleeping apartment in any building, and any part of said dwelling-house or sleeping apartment at the time of the commission of such crime, it shall be burglary in the first degree. If such crime be committed in a dwelling-house or sleeping apartment not actually occupied by any one at the time of the commission of the crime, or if it be committed in any house within the curtilage of a dwelling-house or in any building not a dwelling-house, but in which is a room used as a sleeping apartment and not actually occupied as

such at the time of the commission of the crime, it shall be burglary in the second degree.
Rev., s. 3331; 1889, c. 434, s. 1.

C.S. 4238. **Punishment for arson.** Any person convicted according to due course of law of the crime of arson shall suffer death.
Rev., s. 3335; Code, s, 985, R. C., c. 34, s. 25, 1870-1, c. 222.

C.S. 4657. **Death by electrocution.** Death by hanging under sentence of law in North Carolina is hereby abolished and electrocution or death by electricity substituted therefor.
1909, c. 443, s. 1.

C.S. 4658. **Manner and place of execution.** The mode of executing a death sentence must in every case be by causing to pass through the body of the convict or felon a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict or felon is dead; and the warden of the penitentiary of North Carolina or, in case of his death, inability or absence, a deputy warden shall be the executioner; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, such punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this article and approved by the governor and council of state, the necessary appliances for the infliction of the punishment of death in accordance with the requirements of this article.
1909, c. 443, s. 2.

CHAPTER II

STATISTICS ON CAPITAL CONVICTIONS

Of the 200 persons, 199 men and one woman, who were committed to the State Prison at Raleigh for capital crimes from the time the electric chair was instituted in 1909 through the commitment of Clarence Thomas January 21, 1928, there were 149 Negroes and 51 whites. That is, the Negroes represent 74.5 per cent of the commitments during this period; and the whites represent 25.5 per cent.

Since March 18, 1910, when the first electrocution took place, 94 of these 200 persons, or 47 per cent, have met death in the electric chair. Of these 94 persons electrocuted, 81 persons, or 86 per cent, were Negroes; and 13 persons, or 14 per cent, were whites.

The 94 electrocutions are distributed thus: 71, or 75.53 per cent, for first degree murder; 21, or 22.34 per cent for rape; and 2, or 2.13 per cent, for first degree burglary. Of the 71 electrocutions for first degree murder, 59, or 83 per cent, were of Negroes; and 12, or 17 per cent, were of whites. Of the 21 electrocutions for rape, 20, or 95.2 per cent, were of Negroes; and one, or 4.8 per cent, was of a white man. Both electrocutions for first degree burglary were of Negroes.

On a basis of the total number of convictions for capital crimes during the period, percentages represented by these 94 electrocutions are: Negroes, 40.5 per cent; whites, 6.5 per cent; both races, 47 per cent. The Negro electrocutions represent 54.4 per cent of the Negro convictions; and the white electrocutions represent 25.5 per cent of the white convictions.

The annual number of electrocutions follows: None in 1909, one in 1910, nine in 1911, two in 1912, none in 1913, six in 1914, two in 1915, nine in 1916, four in 1917, seven in 1918, four in 1919, six in 1920, seven in 1921, four in 1922, seven in 1923, one in 1924, 12 in 1925, four in 1926, five in 1927. Four of the electrocutions included in this study took place in 1928, making the total of 94, but these four are not the complete record for that year.

A table follows which gives annual number of admissions to the State Prison of persons convicted of capital crimes, showing distribution by race, by crime for which convicted, and by disposition of case. It should be noted that although these prisoners were sentenced to be electrocuted in the year designated by this table, some of them were not actually put to death until later, which explains the apparent discrepancy between the electrocution figures in this table and the ones given in the preceding paragraph.

The following table shows that the largest number of admissions to the State Prison for capital crime in any one year since 1909 is 17, in 1914, 1922, and 1924. The second largest number is 16, in 1919, and the third largest number is 15, in 1916. In only two years, 1916 and 1919, has the number of white admissions exceeded that of the Negroes.

TABLE AA—ANNUAL ADMISSIONS TO THE STATE PRISON OF PERSONS CONVICTED OF CAPITAL CRIMES

Year	Total Number of Admissions for Capital Crimes	Race of Convicted Person		Capital Crimes for Which Convicted			Disposition of Case		
		Negroes	Whites	Murder	Rape	Burglary	Electrocuted	Commuted	New Trial
1909	2	2	0	1	1	0	1	1	0
1910	5	4	1	5	0	0	3	2	0
1911	12	10	2	11	1	0	8	4	0
1912	4	4	0	4	0	0	0	4	0
1913	4	2	2	3	1	0	1	3	0
1914	17	14	3	13	3	1	5	12	0
1915	9	8	1	6	3	0	6	3	0
1916	15	7	8	12	2	1	5	10	0
1917	13	10	3	8	2	3	7	6	0
1918	8	6	2	5	2	1	4	4	0
1919	16	7	9	13	3	0	7	8	1
1920	11	6	5	8	3	0	6	5	0
1921	8	5	3	7	1	0	4	3	1
1922	17	12	5	9	6	2	5	12	0
1923	10	9	1	7	3	0	7	3	0
1924	17	14	3	15	2	0	9	8	0
1925	13	12	1	9	4	0	6	6	1
1926	10	8	2	9	1	0	4	4	2
1927	7	7	0	5	1	1	4	2	1
*1928	2	2	0	2	0	0	2	0	0
Total	200	149	51	152	39	9	94	100	6

*Incomplete.

Disposition of Cases

In addition to the 94 persons electrocuted, 100 persons, 66 Negroes, 33 white men and one white woman, have had their sentences commuted to life imprisonment or to shorter terms, usually 22½ years to 30 years in the State Prison. That is, 66 per cent of the commutations have been granted to Negroes and 34 per cent to whites.

On a basis of the total number of convictions, percentages represented by these commutations are: Negroes 33 per cent; whites 17 per cent; both races 50 per cent. The Negro commutations represent 44.3 per cent of the Negro convictions; and the white commutations represent 66.7 per cent of the white convictions.

Two Negroes and four whites were granted new trials on appeal to the Supreme Court, and at the second trial all were found guilty of a lesser offense. For these lesser offenses one white man was sentenced to the county chain-gang and four Negroes and one white man each received a sentence from 20 to 30 years in the State Prison.

On a basis of the total number of convictions, percentages represented by these second trials are: Negroes one per cent; whites two per cent; both races three per cent. The Negro second trials represent 1.3 per cent of the Negro convictions and the white second trials represent 7.8 per cent of the white convictions.

Eleven Negroes and seven whites have escaped after their sentences have been commuted, and none of this number have been recaptured. The average length of time served by each of these prisoners from the date of commutation to the date of escape was three years and nine months. On a basis of the total number of convictions, percentages represented by these escapes are: Negroes, 5.5 per cent; whites, 3.5 per cent; both races, nine per cent. The Negro escapes represent 7.3 per cent of the Negro convictions; and the white escapes represent 13.7 per cent of the white convictions.

Six Negroes and two whites have died in prison of natural causes. On a basis of the total number of convictions, percentages represented by these deaths are: Negroes, three per cent; whites, one per cent; both races, four per cent. The Negro deaths represent four per cent of the Negro convictions; and the white deaths represent 3.9 per cent of the white convictions.

Six Negroes and six whites have been pardoned. On a basis of the total number of convictions, percentages represented by these pardons are: Negroes, three per cent; whites, three per cent; both races, six per cent. The Negro pardons represent four per cent of the Negro convictions; and the white pardons represent 11.7 per cent of the white convictions.

Five Negroes and two whites have been transferred to the criminal departments of the hospitals for the insane at Goldsboro and Raleigh. On a basis of the total number of convictions, percentages represented by these transfers are: Negroes, 2.5 per cent; whites, one per cent; both races, 3.5 per cent. The Negro transfers represent 3.3 per cent of the Negro convictions; and the white transfers represent 3.9 per cent of the white convictions.

One Negro and three whites have been discharged through special commutation of their sentences. On a basis of the total number of convictions, percentages represented by these discharges are: Negroes, five-tenths of one per cent; whites, 1.5 per cent; both races, two per cent. The Negro discharge represents six-tenths of one per cent of the Negro convictions; and the white discharges represent 5.8 per cent of the white convictions.

TABLE A—DISTRIBUTION ACCORDING TO DISPOSITION OF CASE

Disposition	NEGROES			WHITES			Total Per Cent (Negro and White) of All Convictions
	Number of Prisoners	Per Cent of Negro Convictions	Per Cent of Total Convictions	Number of Prisoners	Per Cent of White Convictions	Per Cent of Total Convictions	
Electrocuted	81	54.4	40.5	13	25.5	6.5	47
Commuted	66	44.3	33	34	66.7	17	50
Granted New Trial	2	1.3	1	4	7.8	2	3
Escaped After Commutation	11	7.3	5.5	7	13.7	3.5	9
Died in Prison	6	4	3	2	3.9	1	4
Pardoned	6	4	3	6	11.7	3	6
Transf'd to Hospitals for Insane	5	3.3	2.5	2	3.9	1	3.5
Discharged	1	.6	.5	3	5.8	1.5	2

NOTE:—Several of the divisions in this table overlap.

Types of Capital Crime

In the 200 convictions for capital crime, murder in the first degree leads with 152 cases. There were 39 cases of rape and nine cases of first degree burglary. No cases of arson are recorded.

Of the 152 cases of first degree murder, 106, or 69.7 per cent were committed by Negroes, and 46, or 30.3 per cent by whites. On a basis of the total number of convictions, percentages represented by these murders are: Negroes, 53 per cent; whites, 23 per cent; both races, 76 per cent. The murders by Negroes represent 71 per cent of the Negro convictions, and the murders by whites represent 45 per cent of the white convictions.

Seventy-one of the 152 persons sentenced to death for first degree murder have been electrocuted, or 40 per cent. The racial distribution of these electrocutions is given earlier in this chapter.

The largest number of admissions to the State Prison for the crime of first degree murder in any one year was 15 in 1925. Of these 12 were of Negroes and three of whites. The second largest number was 13, in 1914 and 1919. The racial distribution in 1914 was 11 Negroes and two whites, and in 1919 it was six Negroes and seven whites. The third largest number was 12 in 1916, four Negroes and eight whites. (See Table AA.)

The 152 sentences for first degree murder represent 38 per cent of the 395 indictments for this crime which were brought in North Carolina during the period covered by this study. These 395 indictments for first degree murder in turn, represent 9.8 per cent of the 4,043 indictments for the three types of homicide which were brought during this period. Among these 4,043 indictments, those for second degree murder lead, 2,655 in number, or 65.7 per cent of the total. There were 993 indictments for manslaughter, or 24.5 per cent of the total number.

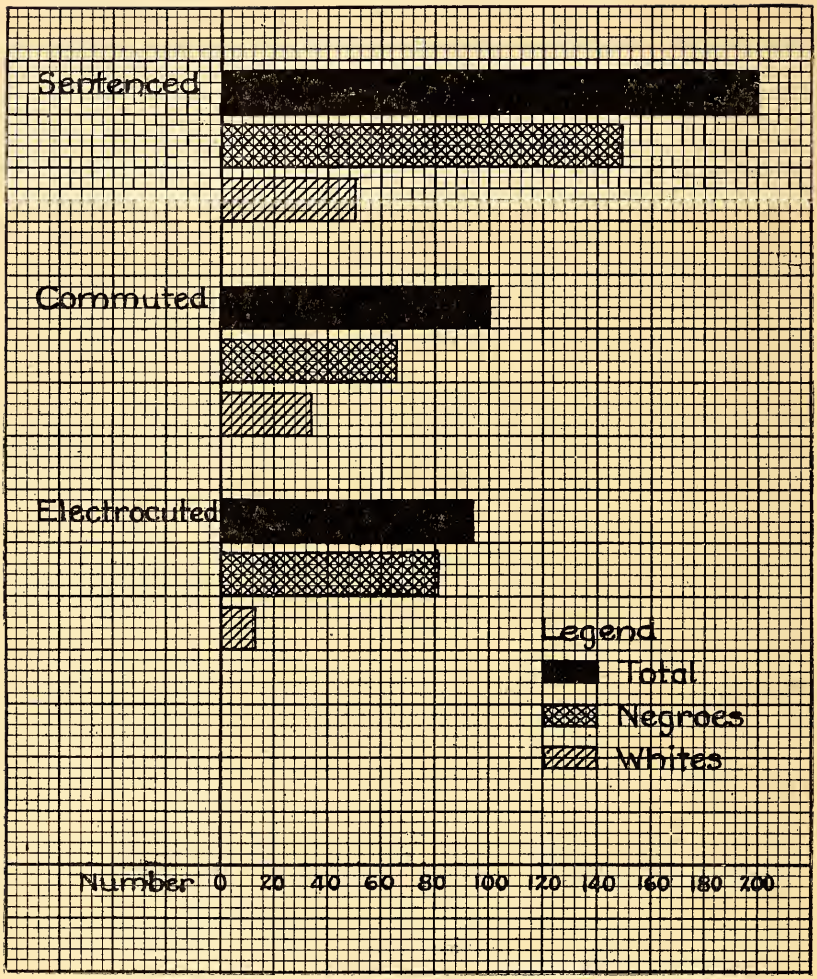
Of the 39 cases of rape, 35, or 89.7 per cent, were committed by Negroes; and four, or 10.3 per cent, were committed by whites. On a basis of the total number of convictions, percentages represented by these cases of rape are: Negroes 17.5 per cent; whites, two per cent; both races, 19.5 per cent. The Negro cases of rape represent 23.5 per cent of the Negro convictions, and the white cases of rape represent 3.9 per cent of the white convictions.

Twenty-one of the 39 persons sentenced to death for rape have been electrocuted, or 53.8 per cent. For racial distribution of these electrocutions, see above.

The largest number of admissions to the State Prison for the crime of rape was six in 1922, five Negroes and one white; and the second largest was four in 1925, all Negroes. (See Table AA.)

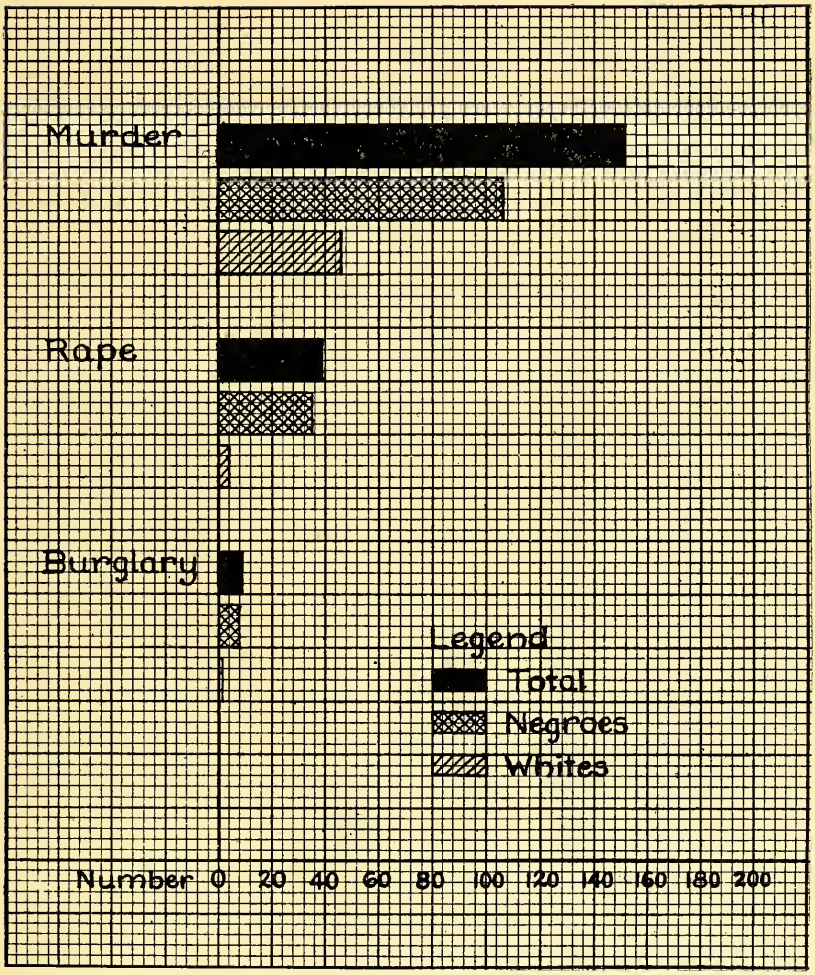
Since 1909 no white man has been convicted of rape of a Negro woman, and in only one of the four capital cases of rape by white men on white women has the convicted prisoner been electrocuted. The other three men were granted new trials and were resentenced, respectively, to six months, 20 years, and from 23½ to 30 years imprisonment.

No Negro has been electrocuted for committing rape on a Negro woman, and in 15 of the 35 cases in which Negroes have been convicted of rape, or in 42.8 per cent of the cases, the Governor has granted executive clemency. Eleven had their sentences commuted from death to from 20 to 30 years imprisonment; one from 17½ to 30 years imprisonment; two were committed to the criminal department of the State Hospital for Negro Insane at Goldsboro; and one was discharged after serving a commuted sentence of 15 years.

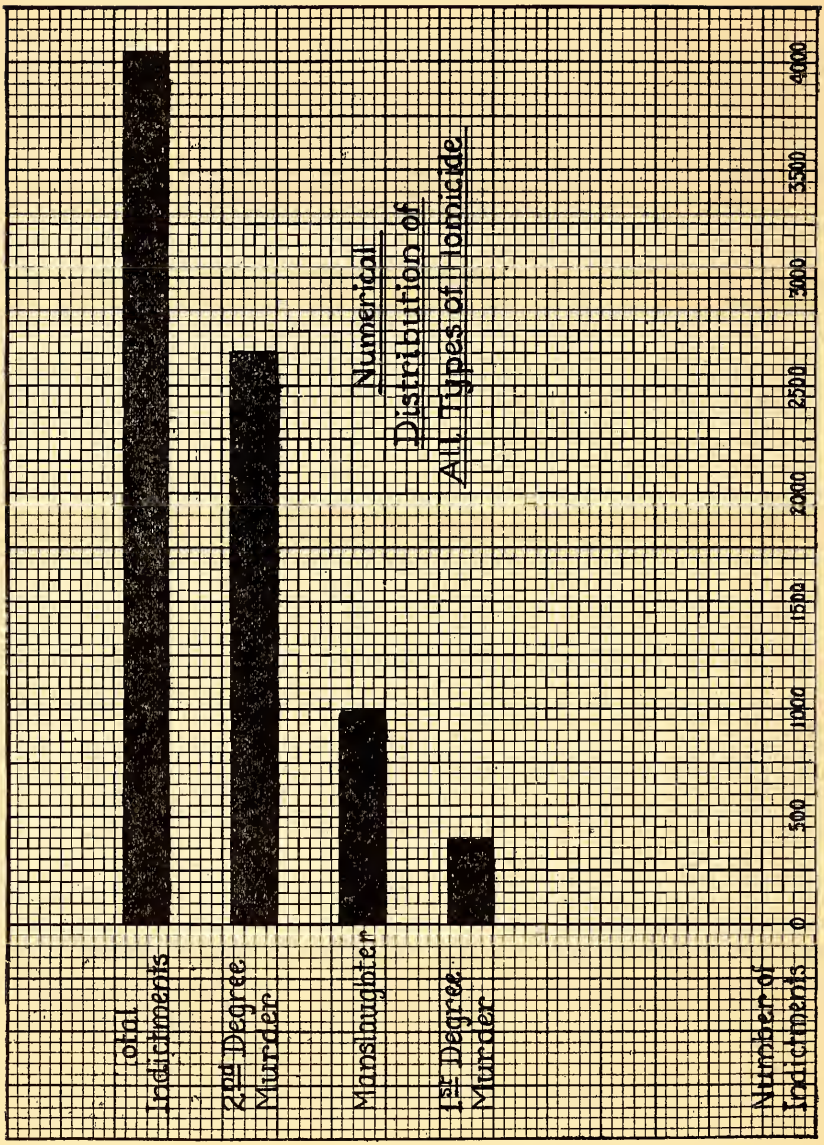


GRAPH I

DISTRIBUTION OF SENTENCES, COMMUTATIONS AND ELECTROCUTIONS OF PERSONS CONVICTED OF CAPITAL CRIMES



GRAPH II
DISTRIBUTION OF CAPITAL CRIMES



GRAPH III
DISTRIBUTION OF ALL TYPES OF HOMICIDE

Of the nine cases of first degree burglary, eight, or 88.8 per cent, were committed by Negroes; and one, or 11.2 per cent, was committed by a white man. On a basis of the total number of convictions for capital crimes, percentages represented by these cases of burglary are: Negroes, four per cent; whites, five-tenths of one per cent; both races, 4.5 per cent. The Negro cases of burglary represent 5.4 per cent of the Negro convictions and the white case represents 1.9 per cent of the white convictions.

The largest number of admissions to the State Prison for burglary was three in 1917, all Negroes. (See Table AA.)

TABLE B—DISTRIBUTION ACCORDING TO CRIME COMMITTED

Crime	NEGROES			WHITES			Total Per Cent (Negro and White) of All Convictions
	Number of Cases	Per Cent of Negro Convictions	Per Cent of Total Convictions	Number of Cases	Per Cent of White Convictions	Per Cent of Total Convictions	
Murder	106	71.1	53	46	90.1	23	76
Rape	35	23.5	17.5	4	8	2	19.5
Burglary	8	5.4	4	1	1.9	.5	4.5

Educational Status of Prisoners

The educational status of the 149 Negroes and the 51 whites sentenced to death in the electric chair was found to be as follows: 120 Negroes and 22 whites are wholly illiterate. That is, of the total number convicted for capital crimes, 71 per cent are illiterate, of whom 60 per cent are Negroes, and 11 per cent are whites. The illiterate Negroes represent 80.5 per cent of the Negroes convicted; and the illiterate whites represent 43 per cent of the whites convicted.

One hundred and twenty-six Negroes had never attended school, representing 84 per cent of the Negroes convicted and 63 per cent of the total convictions. The number of whites who had never attended school was not determined.

Twenty-eight Negroes and 30 whites are able to read and write. That is, of the total number convicted, 29 per cent can read and write, of whom 14 per cent are Negroes and 15 per cent are whites. The Negroes who can read and write represent 18 per cent of the Negroes convicted; and the whites who can read and write represent 58.8 per cent of the whites convicted.

No Negroes had completed high school, and only one white had done so, representing five-tenths of one per cent of the total number convicted and 1.9 per cent of the whites convicted.

One Negro and five whites had completed the sixth grade, the Negro finishing at the age of 18 years. That is, three per cent of all the men convicted had finished the sixth grade, and of this percentage the Negro represents five-tenths of one per cent and the whites 2.5 per cent. This Negro who finished the sixth grade represents six-tenths of one per cent of the Negroes convicted; and the whites who finished the sixth grade represent 9.8 per cent of the whites convicted.

Two Negroes had completed the fifth grade, one at the age of 13 and the other at the age of 15, representing one per cent of the total convictions and 1.3 per cent of the Negro convictions. One Negro had completed the fourth grade, representing five-tenths of one per cent of the total convictions and six-tenths of one per cent of the Negro convictions. None of the other Negroes who could read and write had gone as far in school as this.

TABLE C—DISTRIBUTION ACCORDING TO EDUCATION

Status	NEGROES			WHITES			Total Per Cent (Negro and White) of All Convictions
	Number of Prisoners	Per Cent of Negro Convictions	Per Cent of Total Convictions	Number of Prisoners	Per Cent of White Convictions	Per Cent of Total Convictions	
Totally Illiterate	120	80 5	60	22	43	11	71
Never Attended School	126	84	63	*	....	.....	.....
Able to Read and Write	28	18	14	30	58.8	15	29
Completed High School	....	....	.....	1	1.9	.5	.5
Completed Sixth Grade	1	.6	.5	5	9.8	2.5	3
Completed Fifth Grade	2	1 3	1	....	....	.....	.....
Completed Fourth Grade	1	6	.5	....	....	.....	.....

* Undetermined.

Age of Prisoners

The average age of the 200 prisoners sentenced to death during the period studied is 30.38 years. For the whites the average age is 35.98 years and for the Negroes, 28.41 years.

Eighteen Negroes and two whites are in their teens, that is, ten per cent of the total number convicted. Of this percentage, nine per cent are Negroes and one per cent white. The Negroes in their teens represent 12 per cent of the Negroes convicted; and the whites in their teens represent 3.9 per cent of the whites convicted.

Seventy Negroes and 17 whites are between 20 and 30 years old, that is, 43.5 per cent of the total number convicted. Of this percentage, 35 per cent are Negroes and 8.5 per cent are whites. The Negroes of this age represent 47 per cent of the Negroes convicted; and the whites of this age represent 33 per cent of the whites convicted.

Fifty Negroes and 14 whites are between 30 and 40 years old, that is, 32 per cent of the total number convicted. Of this percentage, 25 per cent are Negroes and 7 per cent are whites. The Negroes of this age represent 33.5 per cent of the Negroes convicted; and the whites of this age represent 27 per cent of the whites convicted.

Five Negroes and nine whites are between 40 and 50 years old, that is, seven per cent of the total number convicted. Of this percentage, 2.5 per cent are Negroes and 4.5 per cent are whites. The Negroes of this age represent 3.3 per cent of the Negroes convicted and the whites of this age represent 17.7 per cent of the whites convicted.

Four Negroes and six whites are between 50 and 60 years old, that is, five per cent of the total number convicted. Of this percentage, two per cent are Negroes and three per cent are whites. The Negroes of this age represent 2.7 per cent of the Negroes convicted and the whites of this age represent 11.7 per cent of the whites convicted.

One Negro and three whites are between 60 and 70 years old, that is, two per cent of the total number convicted. Of this percentage, the Negro represents five-tenths of one per cent; and the whites 1.5 per cent. The Negro of this age represents six-tenths of one per cent of the Negroes convicted; and the whites of this age represent 5.9 per cent of the whites convicted.

One white is between 70 and 80 years old, representing five-tenths of one per cent of the total number convicted and 1.9 per cent of the whites convicted. There are no Negroes of this age.

TABLE D—DISTRIBUTION ACCORDING TO AGE

Age	NEGROES			WHITES			Total Per Cent (Negro and White) of All Convictions
	Number of Prisoners	Per Cent of Negro Convictions	Per Cent of Total Convictions	Number of Prisoners	Per Cent of White Convictions	Per Cent of Total Convictions	
Teens	18	12	9	2	3.9	1	10
20-30 Years	70	47	35	17	33	8.5	43.5
30-40 Years	50	33.5	25	14	27	7	32
40-50 Years	5	3.3	2.5	9	17 7	4.5	7
50-60 Years	4	2.7	2	6	11.7	3	5
60-70 Years	1	.6	.5	3	5.9	1.5	2
70-80 Years	....	....	.....	1	1.9	.5	.5

Marital Status of Prisoners

The marital status of the prisoners is as follows: 91 Negroes and 26 whites are married, representing 58.5 per cent of the total number convicted. Of this percentage, 45.5 per cent are Negroes and 13 per cent are whites. The married Negroes represent 61 per cent of the Negroes convicted; and the married whites represent 50.9 per cent of the whites convicted.

Of the married Negroes, 25 were living apart from their wives at the time of their conviction, representing 12.5 per cent of the total number convicted and 17 per cent of the Negroes convicted. The number of whites who were living apart from their wives could not be determined.

Five Negroes and eight whites are widowers, representing 6.5 per cent of the total number convicted. Of this percentage, 2.5 per cent are Negroes and four per cent are whites. The Negro widowers represent 3.3 per cent of the Negroes convicted; and the white widowers represent 15.7 per cent of the whites convicted.

Sixty-two Negroes and 18 whites are unmarried, representing 40 per cent of the total number convicted. Of this percentage, 31 per cent are Negroes and 9 per cent are whites. The unmarried Negroes represent 41.6 per cent of the Negroes convicted; and the unmarried whites represent 35.3 per cent of the whites convicted.

TABLE E—DISTRIBUTION ACCORDING TO MARITAL STATUS

Status	NEGROES			WHITES			Total Per Cent (Negro and White) of All Convictions
	Number of Prisoners	Per Cent of Negro Convictions	Per Cent of Total Convictions	Number of Prisoners	Per Cent of White Convictions	Per Cent of Total Convictions	
Married	91	61	45.5	26	50.9	13	58.5
Living Apart from Wife	25	17	12.5	*	....	....	.....
Widowers	5	3.3	2.5	8	15.7	4	6.5
Unmarried	62	41.6	31	18	35.3	9	40

*Undetermined.

Former Occupations of Prisoners

Former occupations of the prisoners are as follows: 83 Negroes and 33 whites were farmers, that is, 58 per cent of the total number convicted. Of this percentage, 41.5 per cent are Negroes and 16.5 per cent are whites. The Negro farmers represent 55.7 per cent of the Negroes convicted; and the white farmers represent 64.7 per cent of the whites convicted.

Sixty Negroes and 14 whites were common laborers, representing 37 per cent of the total number convicted. Of this percentage, 30 per cent are Negroes and seven per cent are whites. The Negro laborers represent 40.2 per cent of the Negroes con· cted; and the white laborers represent 27.4 per cent of the whites convicted.

Four Negroes were railroad firemen, representing two per cent of the total number convicted and 2.7 per cent of the Negroes convicted.

One Negro was a minister of the Gospel. One white was a railroad engineer; one, a metal worker; one, a machinist; one, a merchant; and one, a mill worker.

CHAPTER III

PRISON POPULATION

To illustrate the trends in criminal convictions in North Carolina since the electric chair has been in use in the State there follows a table showing the number of prisoners received in the State prison at Raleigh, together with the number of admissions of offenders guilty of capital crimes during the 19-year period covered by this study. This tabulation is for each biennium from July, 1908, through June 30, 1926, and in addition the one-year period from July 1, 1926, through June 30, 1927.

It will be noted from the following table that during the 19-year period covered, 2,976 Negroes and 2,685 whites, a total of 5,661 prisoners, were received at the State Prison at Raleigh. Of these there were 291 more Negroes than whites. Most of this difference is found in the excess in the number of Negro women prisoners over that of white women prisoners. There were 268 Negro women received and 61 white women, that is, 207 more Negro women than white women. The difference in the number of Negro men and the number of white men is much less marked, as the number of Negro men exceed that of the white men by only 84, with 2,708 Negro men received as against 2,624 white men. From 1920 through 1927 the number of white men received has exceeded the number of Negro men in each biennium.

Analysis of the figures shows further that the number of Negro men received at the State prison increased during the second biennium, but decreased in the three following biennial periods to a number almost equal to that at the beginning of the tabulation in 1908-10. Part of this decrease came during the pre-war period, 1912-14 and 1914-16, and part during the war period 1916-18. Just after the war, in 1918-20, there was another increase in the number of Negro men, followed in 1920-22 by another decrease. After this there was a sharp rise in 1922-24, and in 1924-26 came the peak in the admissions of Negro men. In the one year period, 1926-27, the number of Negro men received was considerably less than half the number in the preceding two-year period.

In each biennium from 1908 through 1926 there has been a steady increase in the number of white men received, and the figures for the one-year period, 1926-27, suggest a continuation of the increase in the biennium 1926-28. In 1920-22 for the first time since the State began the use of the electric chair the number of white men received at the State Prison exceeded the number of Negro men. Since then, this excess of white men over Negro men has continued in each biennium and also in the year ending June 30, 1927. In 1924-26 when the largest number of Negro men was received there came also the peak in the admissions of white men.

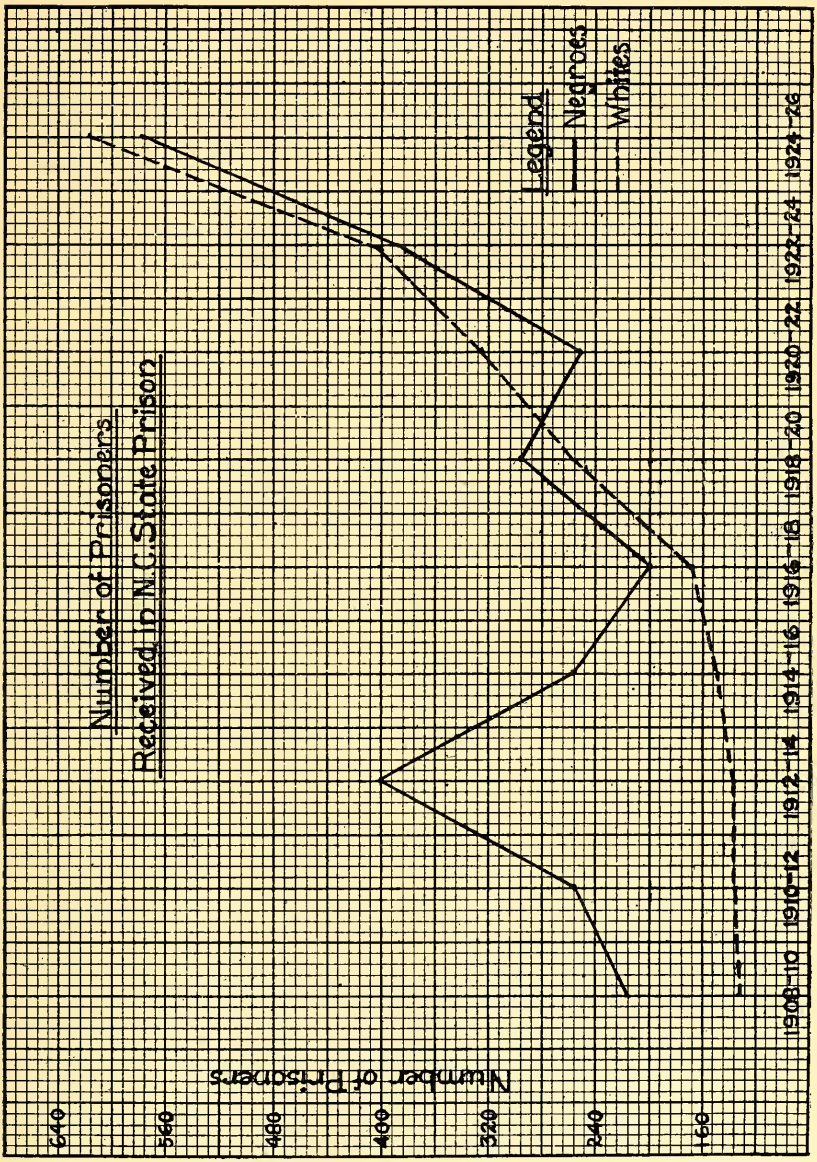
In the number of Negro women, there was decrease in the second and third bienniums, followed by a rise of one in 1914-16, after which there was a decrease of almost a third, followed by another rise, then in 1920-22, a marked decrease of approximately two-thirds. In 1922-24 the number of Negro women rose sharply again to a point slightly above that four years earlier. In 1924-26 the number increased by about one-half and represents the largest number of admissions of Negro women during the entire period. This was simultaneous with the peak for both the white men and the Negro men. During the one-year period, 1926-27,

TABLE F—NUMBER OF WHITE AND NEGRO PRISONERS RECEIVED IN THE STATE PRISON AT RALEIGH JULY 1, 1908—JUNE 30, 1927

Biennium	MEN		WOMEN		BOTH SEXES				
	Negro	White	Negro	White	Negro Total	Negro Capital Convictions	White Total	White Capital Convictions	Total Capital Convictions
1908-1910	182	122	34	3	216	4	125	0	4
1910-1912	288	128	29	6	257	13	134	3	16
1912-1914	267	130	26	5	293	14	135	5	19
1914-1916	228	141	27	7	255	20	148	5	25
1916-1918	181	160	19	5	200	13	165	8	21
1918-1920	265	244	28	5	293	10	249	12	22
1920-1922	245	314	9	9	254	13	323	7	20
1922-1924	361	396	29	5	390	24	401	6	30
1924-1926	529	608	45	11	574	24	619	5	29
*1926-1927	222	381	22	5	244	8	386	0	8
Total	2708	2624	268	61	2976	143	2685	51	194

*One-year period.

NOTE: Although the above divisions cover the admissions of both sexes, no Negro woman has been committed to the State Prison for capital crime, and only one white woman.



GRAPH IV

NUMBER OF PRISONERS RECEIVED IN N. C. STATE PRISON, BY BIENNIAL PERIODS

the number of Negro women was about half of that in the preceding biennium.

In each biennium fewer white women have been received at the State Prison than any other group. Only three were received in 1908-10. In the second biennium the number doubled to six, decreasing by one in the third, increasing by two in the fourth, then decreasing by two in the fifth and remaining the same in 1918-20. The number almost doubled in 1920-22, then cut itself about half in 1922-24, but more than doubled in 1924-26, the same period when the largest number of Negro men, Negro women and white men were received. Admissions of white women for the one-year period 1926-27, were slightly less than half the number received in 1924-26.

Analysis of the trends in capital convictions has already been given apropos of Table AA. From June 30, 1927, when Table F ends, to the close of the period covered by this study six Negroes convicted of capital crime have been admitted to the State Prison, making the Negro total of capital convictions 149 and the total for both races 200.

Statistics for the Year 1927

(Note: The figures in the foregoing tabulation and analysis include those through June 30, 1927, whereas the following figures are for the whole calendar year 1927, from January 1 through December 31.)

During the year 1927, 466 white men, 279 Negro men, 26 Negro women, and 7 white women were sent to the State Prison at Raleigh, a total of 778. The average age of the male prisoners of both races is 26.95 years; for the white men the average is 27.47, and for the Negro men 26.12.

Eighty-nine of the 100 counties in North Carolina were represented among the 778 prisoners sentenced to the State Prison during that year. The largest number from any county was that from Buncombe which sent 74 persons to the prison during 1927. Wake was second with 65, Guilford third with 52, and Forsyth fourth with 40. Despite its large population and the fact that the city of Charlotte is located in it, Mecklenburg County sent only 17 prisoners to the State prison in 1927.

Among the causes of conviction of members of both races larceny in its various forms was the most common. Eighty-six whites were convicted of larceny and 38 others for different forms of this offense. For the whites, manslaughter, second degree murder and forgery also were common causes of commitment. Thirty-two men were guilty of the last. Among the 77 different crimes listed for which the whites were convicted, 15 were highway robbery (one case that of a woman), 3 were embezzlement and 23 were thefts of automobiles. There were also many convictions for crimes involving moral turpitude, such as prostitution, carnal knowledge of a female under 16 years old, assault and seduction, assault with intent to commit rape, crime against nature, and so on.

Among the Negroes also larceny leads with 34 convictions and fully as many for the various forms of this offense, while second degree murder is next with 38 convictions, followed by 25 convictions for breaking and entering and 11 for highway robbery. Convictions for manufacturing liquor and for violations of the prohibition law are notable for their rarity. There are not more than a dozen of these among the 778 convictions of the members of both races.

Of the 26 Negro women sent to the State prison during 1927 four were convicted of second degree murder, 3 for receiving stolen goods and 10 for manslaughter.

Of the seven white women sentenced to the prison during this year one was convicted of each of the following offenses: highway robbery,

stealing an automobile, receiving stolen goods, false entry in bank books, and three for larceny of various kinds.

County Penal System

The county penal system in North Carolina is divided into two parts, jails and prison camps. The jails are used for short periods of incarceration and the prison camps are used as bases for road, quarry and farm work. These camps hold more prisoners than any other type of penal institution in the State, although only 44 of the 100 counties were using them at the time when this study was made.

Although in the population of the State Prison at Raleigh during the 19-year period treated in this study there have been more Negroes than whites, the racial comparison is even more unequal in the county prison camps to which is sent a larger proportion of Negroes. And the sentences of the Negroes usually are longer, even for similar offenses.

On the other hand, at the time when the following table was made the county jails held more white men than Negro men, but fewer white women than Negro women.

PRISON POPULATION IN NORTH CAROLINA

COUNTY JAILS

	White	Negro	Indian	Total
Men	500	451	6	957
Women	69	128	....	197
Total	569	579	6	1154

COUNTY PRISON CAMPS IN FORTY-FOUR COUNTIES (ALSO TWO TOWNSHIP CAMPS AND ONE CITY CAMP)

Men	818	1459	21	2298
Women	.....	3	....	3
Total	818	1462	21	2301

STATE PRISON AND STATE PRISON CAMPS

Men	708	831	....	1539
Women	9	44	....	53
Total	717	875	....	1592

Education and the Penal System

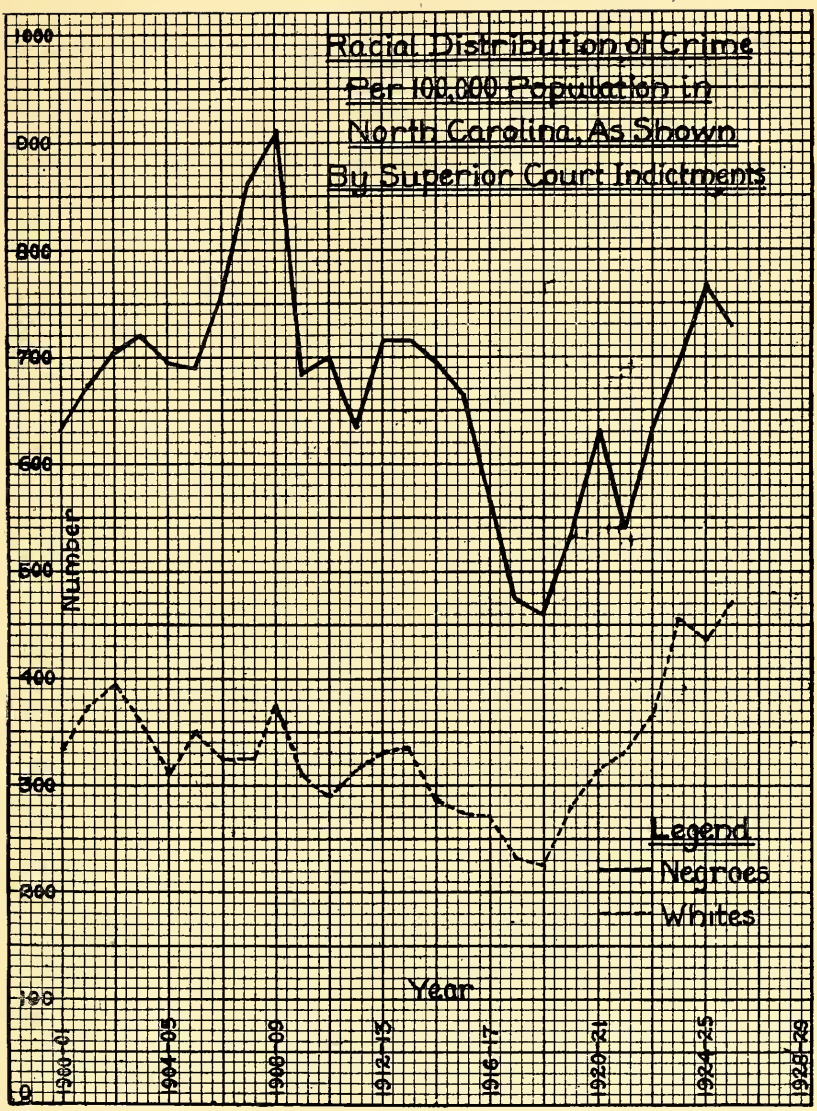
Many of the prisoners in the North Carolina penal system are practically or quite illiterate. Few have gone beyond the elementary or lower grammar grades. Very few have done any work in high school. A recent study of the educational status of the white and Negro prisoners in *The North Carolina Chain-Gang* by Jesse F. Steiner and Roy M. Brown, of the University of North Carolina, shows the following facts.

Twenty-nine per cent of the total number included in the study were totally illiterate, 16 per cent of the whites and 34 per cent of the Negroes. Seventy-four per cent of the whole group did not have enough education to read a newspaper. This group included 52 per cent of the white men and 83 per cent of the Negroes. Seven prisoners, all white, had finished high school or had knowledge of the English language equivalent to that of a high school graduate. Fifteen others, 12 whites and three Negroes, were placed by the tests somewhere within the high school grades. Four received the rating of "college graduate" by the word-knowledge test, and a fifth was rated as "in college". Two or

three of these had been to college, though none was a college graduate. The others had acquired their knowledge of words without the advantages of a college education.

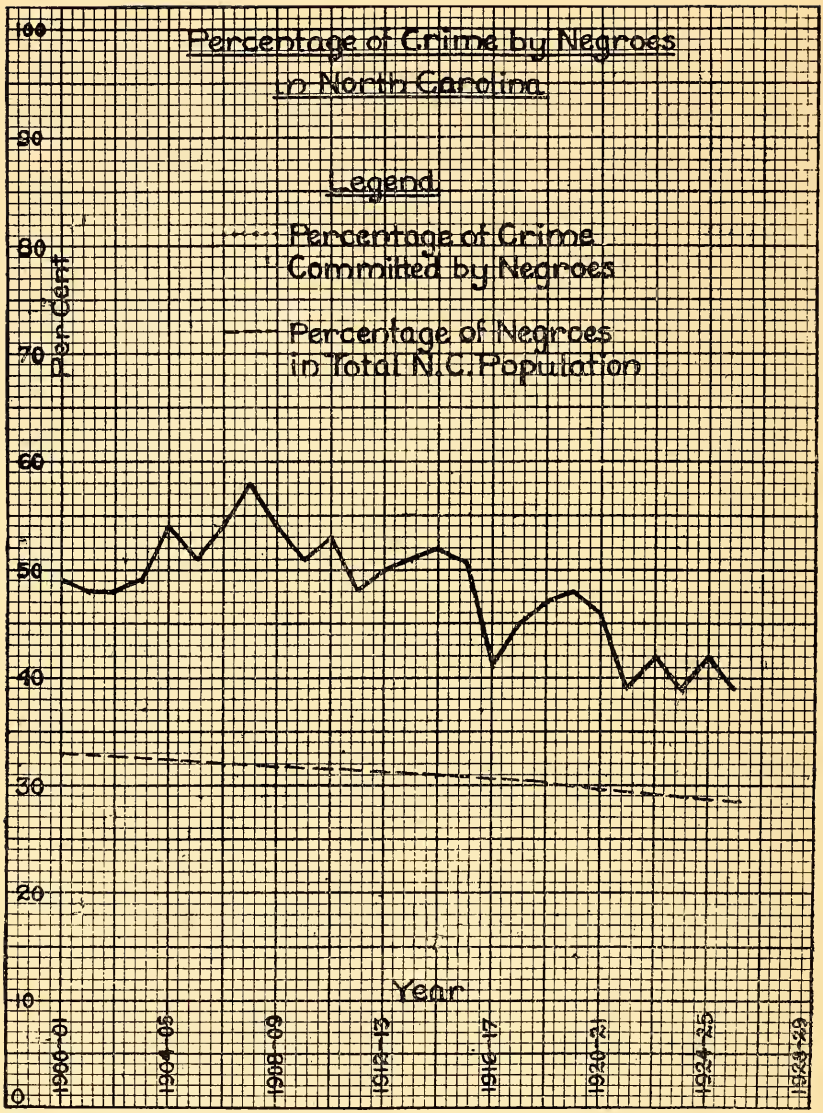
Of the group of illiterates and near illiterates, 268 were boys of 14 to 20 years old. Of these, ten white prisoners and 72 Negroes were totally illiterate and an additional group of 35 whites and 151 Negroes were unable to read a newspaper. These groups include nine per cent of all white prisoners and 21 per cent of all Negro prisoners. All these persons are within the public school ages of six to 21 years. If the proportion holds for the whole group in the State, more than 425 boys in the penal system, who are unable to read a newspaper or to qualify to vote by age are still entitled to attend the public schools. Moreover, all these young prisoners have grown up since the State has had a compulsory school attendance law. That law, evidently, has not been enforced in the cases of most of the prisoners who are normal mentally, and, if enforced in the cases of those so mentally subnormal as to be unable to profit by the instruction offered in the public schools, no adequate steps have been taken by the State to care for these defectives.

The graphs included in this chapter are based on indictments returned in the 100 Superior Courts of the State during the nineteen-year period of this study.



GRAPH V

RACIAL DISTRIBUTION OF CRIME, PER 100,000 POPULATION IN NORTH CAROLINA, AS SHOWN BY SUPERIOR COURT INDICTMENTS



GRAPH VI

PERCENTAGE OF CRIME BY NEGROES IN NORTH CAROLINA

CHAPTER IV

REPORTS OF ELECTROCUTIONS

The following reports of some recent executions by electrocution quoted verbatim from *The Raleigh News and Observer* and *The Greensboro Daily News* describe the scenes which attend the infliction of the death penalty in North Carolina.

The Case of Jim Collins

Jim Collins, nineteen-year old Anson County Negro, who yesterday paid the death penalty in the electric chair at State's Prison, faced his doom with a calmness seldom achieved by the most heroic of men.

"Howdy, you all", said Collins in the best of humor as he walked into the small chamber, accompanied by Rev. W. S. Shacklette, the prison chaplain, and three ministers of his own race.

Repeating in a firm and clear voice the familiar strains of the Psalm beginning "The Lord is my Shepherd, I shall not want", the little Negro said at the end "All right". Chaplain Shacklette leaned over and shook the one hand that had been left by those who pursued the Negro for eight days, the straps were fastened and the current turned on.

To all outward appearances the single shock was sufficient but Warden Norman after one glance with an experienced eye signalled for the current again and it was applied the second time. Beyond the inevitable recoil from the shock of the 1,800 volts of electricity, there was no sign from the body except a bright flare of flame and the odor of burning flesh. He went confidently to his doom and quietly he endured it.

Collins was executed for shooting A. C. Sedberry, a white man weighing 215 pounds and a member of a prominent family. The shooting followed a quarrel precipitated by the white man who assaulted the Negro and cuffed him about the head.

The case has attracted little attention outside of Anson County, where the shooting provoked intense excitement last July and where interest has been maintained. However, there have been few cases where so much quiet effort has been made before the Governor. Relatives and friends of Sedberry have worked unceasingly to see that the death penalty was imposed and attorneys for the private prosecution remained in the case through the hearing for clemency before Governor McLean. Collins, poor and friendless and without lawyers of his own, elicited the sympathy of the lawyers appointed by the court to defend him and their efforts received support from such disinterested persons as Assistant Attorney General Frank Nash and Bishop Joseph Blount Cheshire.

As the little Negro, who had already lost his right arm while fleeing from a mob, was led into the chamber to be strapped into the chair, J. Chesley Sedberry, Rockingham lawyer and brother of the man killed by Collins, pressed forward against the chain which shuts off a small space around the chair. The lawyer brother, who has followed the case all the way through the trial in the Superior Court, the appeal in the Supreme Court and the hearing for clemency before Governor McLean, missed no scintilla of what occurred yesterday. After the dying declaration by the Negro youth, the brother of the dead man stepped back to the side of Baxter McRae, an eye witness to the killing, and remained near the wall of the little octagonal room, with his eyes glued upon the huddled form in the chair until two full shocks had been

administered and Dr. J. H. Norman, prison warden and physician, had applied instruments to the shrunken form and had declared that all life was extinct.

The spectacle appeared to in no way affect the attitude of the brother. He stepped briskly into the conversation as one of the Negro ministers was relating to newspapermen the dead Negro's feeling of justification and declared that the beating administered the Negro by his brother had been greatly exaggerated and that Collins was only slapped.

H. H. McLendon and H. P. Taylor, the attorneys appointed by the court to defend the Negro, appealed to the Supreme Court on the theory that the evidence did not justify a first degree verdict. The court kept the case from the Fall term to the Spring term but finally affirmed the judgment of the court below.

The case was then brought before the Governor, with Assistant Attorney General Nash, who argued the case in behalf of the State in the Supreme Court, asserting that the execution, under the circumstances, would be "an outrage to the State". Bishop Cheshire and others who ordinarily take no part in such matters joined in and considerable effort was made to save the Negro. These efforts kept up through Thursday when the three Negro ministers who were with him in his last moments wired the Governor in New York.

Collins shot Sedberry on July 19, 1924. It was in evidence that he had made arrangements to give himself up but a mob formed before the sheriff reached him and the Negro fled, being captured eight days later near the line between Stanly and Cabarrus counties.

After being cuffed by the white man, Collins got a shot gun, which was taken away from him, and then got a pistol, following Sedberry down the road and shooting him in the back.

In the opinion of the Supreme Court Justice Adams sets forth the circumstances of the killing as follows:

"On the day of the homicide the deceased was engaged in scraping the public road. He and Baxter McRae were running a road grader. They met a car. The prisoner was on the running board. During a part of 1924 the prisoner had worked for the deceased but had left him and was employed by William Culledge when the homicide occurred. The deceased had the car to stop when it approached the grader and this conversation followed:

"Sedberry: 'Jim, why did you do like you did this morning?'

"Collins: 'Did what?'

"Sedberry: 'Send Oscar Culledge for the money.'

"Collins: 'I just sent him.'

"Sedberry: 'Ain't you a man of your own?'

"Collins: 'I am.'

"Sedberry: 'Why did you not come and get it?'

"Collins: 'I just didn't come.'

"Sedberry: 'I owe you $2.37 and carried you one night to see the doctor, didn't I?'

"Collins: 'You did.'

"Sedberry: 'I didn't intend to charge you for that if you had stayed your time out you hired to work but as you did not I am going to charge you $2.50 for that trip; that leaves you owing me 13 cents and I am going to strike off even with you.'

"Collins: 'I don't give a damn what you do with it.'

"Sedberry (after stepping down from the road machine): 'Don't you cuss me.'

"Collins: 'I didn't cuss you.'

"Sedberry: 'You cussed at me.' "

As Judge Adams reviews the testimony this conversation was followed by a fight in which the white man jumped on the Negro and beat him up badly. The Negro got a shot gun and started after the white man but the shot gun was taken away from him by another Negro. He then went and got a pistol, with which he did the killing.

The Case of Arthur Montague

Making frantic appeals to Jesus to "save my soul", Arthur Montague, a twenty-two-year old Negro, paid with his life the full penalty of the law yesterday morning at the State's prison for attacking a small white girl, an inmate of the State School for the Deaf at Morganton.

The Negro's body was badly burned by the 2,200 volts of electricity shot through him. His body convulsed and the muscles tautened as the current was turned on at the signal from Dr. J. H. Norman, and although a second charge was necessary after the first, which lasted two minutes and twenty seconds, the Negro did not regain consciousness before the current was turned on for an additional minute and fifteen seconds before the body was carted away in a basket.

The Case of David Jones

Two hearses stood in the shadow of the grim octagonal turret yesterday morning in the yard of the State Penitentiary.

At 10:26 a. m. the guards dragged Jones into the little room where he had an engagement with the people of North Carolina and at 10:31 they unstrapped his steaming remains from the chair, placed it in a casket and loaded it into one of the waiting hearses.

The electrocution contained few spectacular scenes. The prisoner seemed dazed with fright and submitted passively to all that was done to him. He did not fight the current and after two shocks was pronounced dead. The first shock lasted twenty-five seconds and the second shock one minute and nineteen seconds.

"Goodbye, Ed, meet me in glory", Jones shouted as the guards led him down the corridor but once he stood in the little room which was packed to the guard rail with sensation seeking witnesses, he did not have another word to say.

The Case of Will Williams

With eyeballs blazing in religious ecstasy and fear but with his body submissive and ready for death, Will Williams, Scotland County murderer, yesterday took his seat in the gaunt electric chair at the State's prison where two stern shocks of eighteen hundred volts of lethal current tore life from him.

"I'm going home this morning, Jesus. I'm going home this morning," the little brown skinned Negro cried, as he entered the death chamber. "Stand by me, Jesus; you said you'd stand by me. I'm going home to peace. Yes, Jesus, stand by me. I'm going home to die no mo'. All you men meet me in glory, will you?"

The mask went over his face and he was quiet. Deputy Warden Honeycutt poured water into the points of contact at the cap and leg. Warden Norman gave the signal and J. E. Thomas, of Franklin County, executioner, pulled the switch that poured the tremendous current into the little body of the Negro.

The diminutive body became a rigid column. The hands clenched with the thumbs caught inside. The water sang like a tea kettle in the contacts and the flesh burned and cracked aloud. The odor of flesh filled the little octagonal room. The leg and trunk of the Negro writhed in

the grip of the current. The body slumped as the first shot ended after one minute and forty-five seconds. Dr. Norman listened at the heart after Honeycutt pulled aside the blue shirt. There was still life and Norman signaled again. It lasted forty-five seconds.

The body was dumped into a basket and carried to the Brown undertaking establishment to wait burial, if relatives wanted or for use in a vivisection room at a medical school. There were no relatives at the execution, and no witness from the county of the crime.

There was little apparent interest in the execution. Only one or two curiosity seekers failed to gain admittance to the death chamber because of the law allowing only six witnesses besides attendants and newspapermen. All tickets to the electrocution had not been secured in advance and three young men tossed coins to see who should see it, the odd man to win.

The Case of George Love

Once populous death row at the State's Prison is a lonesome place today, its local population consisting of two Negroes, one crazy, for yesterday they took George Love out and electrocuted him for the murder of Bill Brock, a white man, running the total of executions for the year up to a record-breaking ten.

When Will Williams, Negro, was electrocuted one week ago, the toll of the death machine for the year 1925 equaled, with nine, the totals of the other two "heavy" years, 1911 and 1916. When George Love was pronounced dead the total for the first six months of 1925 was pushed ahead of the total of any preceding twelve months since the death chair was established in 1909. The ten executions follow on the heels of 1924, when only one man was electrocuted.

Death row could not even raise a condemned duet to cheer George along on his last short walk, for Cheatham Evans, half of the death row inmates, is too crazy with the dread of approaching death to carry a tune.

When the hand of the executioner pushed the death switch home, the deep bass of the roaring dynamos rose to a whining, whirring soprano, and the muscles on the throat of the man who had lately been singing himself bulged and twisted, as the water hissed, steamed and boiled under the death helmet and trickled down on the brow of the dying man.

The taut body in the chair alternately rose and slumped as the executioner turned the switchboard knob that regulates the number of amperes mingled with the eighteen hundred volts. When a large number of amperes were turned on the fingers would clinch, the muscles would bulge and the body strain against the straps as though it were trying to escape.

Then the amperage would be lowered momentarily and the body would seem to relax in a gesture of relief, only to be snapped up by another injection of amperes.

The Case of John Leak and Kenneth Hale

Yesterday morning at forty minutes past ten, two thousand volts of electricity drew the body of the Negro, John Leak, taut and rigid against the chair in the little eight sided room in the State prison and sent what soul he had out into the Great Beyond to meet what further penalty if any eternity may have in store for him for the killing of a Davidson County taxicab driver.

Shouting "amens" and "hallelujahs", Kenneth Hale, seventeen-year old Negro, Leak's partner, had preceded him to the chair and had been declared dead after the splendid vitality of his young body had waged a

bitter fight with the four shocks of highly ampered electricity that was shot through his frame.

Among the thirty odd spectators who saw the electrocutions were: the wife of the Davidson County sheriff, who accompanied her husband to Raleigh for the culminating spectacle and the brother of the slain taxi driver. As the stench of the burning flesh pervaded the little room the sheriff lit a cigar that would permit the rivalry of no other odor.

"Well, that's the end of the Garwood case," said the sheriff as the current caught the Negro. "Somebody lend me a match, my cigar's out."

The Case of the Stewarts

C. W. Stewart and Elmer Stewart, father and son, were electrocuted yesterday morning at the State's prison for the murder of a Wilmington city detective. Their execution marked the first time in the State of North Carolina that two white men have paid the death penalty on the same day.

For the first time in history electrocutions at the State's prison were performed by hired executioners. Joe Stone, of Robeson County, with iron gray hair and long mustache, received $25 for throwing the switch that shot the lethal current through the elder Stewart. J. E. Thomas, of Louisburg, stout and jovial, administered the shocks that killed the boy.

As the prisoners entered the death chamber they did not look the upstanding men they appeared about one week before their death. Old Man Stewart, who was called first, was red-eyed and haggard, as though he had not slept well and had been crying. His mustache had been shorn as well as his iron gray hair and he looked like a sick old man rather than a cold blooded desperado.

His arms and his legs were strapped to the big chair and a leather strap was fastened about his body. The mask-like leather harness was tightened about his face and under his chin leaving only his nose and chin visible. The cloth-covered helmet with the sponge in it was placed over his shaven head. The death wire was fastened into the place provided for it on the top of the helmet.

An attendant took an old shaving mug, got some water out of a bucket and poured it over the helmet. Dr. J. H. Norman, the new warden, examined the job then stepped back from the chair and clicked the ear pieces of his stethoscope sharply together—the death signal.

Old Man Joe Stone at the switch missed the first signal and the doctor had to make a louder one. This time the executioner caught it and pulled down the switch.

The relaxed body in the chair suddenly tightened as a patient tightens in a dentist chair when the dentist strikes a live nerve. The chin tilted upwards in a gesture of the ultimate of agony. There came a sound from the chair as of bacon frying and the stench of scorching flesh pervaded the room.

It took three shocks to kill the elder Stewart, the first lasting 56 seconds, the next 34 seconds and the final 26 seconds. When the body was removed it was completely purple except for leprous white streaks which showed where it had strained against the straps caught in the whirl of 1,800 volts of high ampered electricity.

Above the hum of the dynamo while they were electrocuting the elder Stewart could be heard the exhorting words of spiritual guidance which were being given the younger Stewart in his cell on death row where he awaited his turn at the chair.

The young Stewart was more nervous than his father, when they brought him in. He seemed to wish to prolong his life. At the first glimpse of the chair he shrank away from it.

"Take your time: I'm in no hurry," he muttered to the attendants who were strapping him in. "O dear God, be with us all. O dear my father, let me meet you in heaven. O Jesus, be with me now," he said in a sing-song voice over and over again. The strap which was placed across his mouth made the words almost unintelligible but now and again one could catch the words "God," "Jesus," "Father and Heaven."

The warden held up the moment of throwing the switch to wait for the boy to stop talking but he showed no signs and the death current caught him in the midst of exhortation. Again the chin tilted up at an angle of agony and again came the crackling, cooking sound and the stench of scorching flesh.

The water that had been poured over the helmet steamed and a great blister rose and burst on the boy's leg.

Outside the prison walls curiously morbid crowds sat on box cars with their eyes glued on the windows of the death room and swirled about the closed gates to the prison yard. They saw the hearse drive up and saw the baskets containing the bodies of the executed men carried out.

The Case of the Cains

The tests were all made, the death-wagon with two baskets for the bodies of the brothers rumbled on the sidewalk and everything was ready for the execution. Joe Cain, who finally attained spiritual heights by breaking into semi-emotionalism, appeared least ready to go. He thought he had a right to hope. But this morning he seemed most anxious to get through with the ordeal and he came first to the chair.

"Well, I haven't anything against anybody in the world," he said, and primitive prayers were reeled off as long as the big leather straps would allow him to articulate. Through the helmet one could see Joe's eyes looking unto the hills from which he hoped to get help. He never looked down but up and he was whispering prayers when the current struck him. He patted his hands nervously against the arms of the chair and was in motion when the voltage hit him. Paralysis complete followed, the dynamo pulled powerfully and big Joe's chest struggled against the bands. The current remained on forty seconds when the flesh began to fry and great blisters break out from the points of contact.

Then occurred something never seen there in the four dozen slain by the State. Dr. A. W. Knox, prison physician, went over to put the stethescope on the dead man's heart, and Cain breathed visibly to the whole room. Three times full breaths were registered and the current went on for 25 seconds. Then when the wretched devil was dead he sat bolt upright with eyes wide open looking heavenward. It was an awful spectacle.

They took Joe out and Gardner came in. The smaller man was in the best frame of mind that Mr. Caviness had seen him. "The Lord be with you," said Gardner Cain as he rounded the door leading into the room, "God bless you all."

The second victim stood and smiled at his preacher, shook hands warmly, and took the chair so hospitably prepared for him by a State, such a sanctimonious stickler for its own protection, so indifferent to its obligations to its moral morons and idiots. Gardner Cain deserves the reputation that he has won, having more sense than his brother. The smaller man dropped down, chattered off his prayers on the chair and viewed it with greatest apparent interest. As they harnessed him

up to the chin he was all brightness and animation. He went away with grace and abandon.

Warden Busbee would take no chances on him until 57 seconds had fried away. The little man was not then dead. His heart just pumped away. Twenty-five seconds more did the work. Cains were riding side by side in baskets on their way to the undertaker.

The Case of McIver Burnett

In the presence of the woman upon whom he had committed crime, strapped helpless and unresisting in the chair not five feet from where she stood, McIver Burnett, a wisp of a Negro boy not much more than 16 years old, paid the death penalty at the State prison yesterday morning. Nine other women were among the crowds of 82 persons who watched him pay with the only currency that he had.

Again the prison authorities found it necessary yesterday morning to set guards about the gate to keep back the throng that pressed for admission. Seemingly the tribe of the morbidly curious had suffered no diminution. An hour and a half before the gates were opened, there were more than enough men and women without the gate to fill the death chamber, and every passing minute added to their number.

Outnumbering any other single class of seekers for admission were youths wearing the red caps that distinguish State College freshmen. Few of them had tickets, and but one survived the rush that began when the guards on the gate began to allow the crowd to trickle past. It was 10 o'clock, and half an hour before the accounting with the Negro.

One by one eighty or ninety who had tickets surrendered them to the guard, and rushed across the grounds straight to the door of the death chamber. They had no regard for the placarded admonition to keep off the grass. They ran scrambling up the steps without breath left in their lungs, and looked back to survey those who followed, with the pleased expression of those who have acquired advantage of some sort.

By some miracle eighty-two people passed into the narrow chamber, crowded so thickly that when one of the women fainted during the electrocution, she could not fall to the floor. She stood packed there until the doors were thrown open and she was taken into the air. She was revived without much difficulty. So densely was the crowd packed that it was impossible to close the wooden doors. Some few stood on the steps outside and peered through the iron grating.

Fifteen minutes were left of life for the Negro when the last of the throng was packed into the room. From within the death row came the sonorous voice of the minister. Somebody giggled nervously and it echoed around the room.

A slight, rather pretty young woman, seemingly not yet twenty years old, Mrs. McGhee, stood against the steel chain that encircles the chair placed so that she would be the first to see the Negro boy when he came through the door of death row. She clung to the arm of a somewhat older woman. Her husband stood beside her racked by nervousness he was powerless to control.

The Negro minister came first, stumbling and almost falling into the chamber. He had caught his foot over somebody's shoe at the door. A guard and then the Negro and another guard followed slowly after him. The minister's Psalm was halted for a moment when he stumbled.

Nature had made the boy black but fear had turned him an ashen gray. Lacking the hideous distortion of fear it might have been a harmless, good natured face, like that of any sixteen-year old Negro boy. He

was little under average height, and weighed perhaps 120 pounds. He was dressed in the rough clothes of the prison, a hickory stripe shirt open at the neck and blue denim trousers, slit up the right leg to make way for the electrode against the naked flesh. His head was shaved.

Without a word he sat down in the chair, and the minister stepped to one side to make room for the attendants who began to strap him in the chair.

So dense was the crowd, and so long did it take them to unpack themselves, that fifty or so of them saw an angle of the tragedy that not many such crowds see. As soon as he was dead, the body was unstrapped. It lay there, limp and with the hideous distortion of death frozen across its face. The hands dropped drunkenly toward the floor. The mouth being open, dripping a froth of saliva that had boiled almost from the powerful heat of the current. The burns of the head and face and on the leg stood out vividly.

"Well, did you enjoy it?" Somebody asked the young woman who was the Negro's victom.

"I sure did," she replied. She had lost none of her composure.

CHAPTER V

JUSTICE BY EXECUTIVE CLEMENCY

The following case presents a good example of the exercise of executive clemency to secure belated justice in a capital case.

Cyrus Jones, a mail carrier who also operated an automobile for hire, was shot on the highway about a mile and a half from the town of Swansboro, in which he lived, at approximately seven o'clock in the evening of August 5, 1922.

After he was shot, he drove his automobile back to the home of a neighbor, John Midgett, where he stopped. Jones' wife at the time was away from home. Answering his cries for help, Midgett asked him what was the matter, to which Jones replied that he had been beaten to death and there was no chance for him, and asked to be taken out of the car and to his home. Just before he helped Jones out of the car Midgett asked him who had beaten him, and Jones' reply was, "Collins, Williams and Doves". At the subsequent trial there was ample evidence to prove that Willie Hardison was known in the community as Collins.

Unconscious most of the time, Jones lingered from Saturday until the following Wednesday night when he died of meningitis caused by the gun-shot wound in the left side of his head which had been inflicted with a size four or six shot.

George Williams, Frank Dove, Fred Dove and Willie Hardison were indicted for first degree murder of Jones by the Grand Jury and after a special venire, at the October, 1922, term of Superior Court of Onslow County, with Judge E. H. Cranmer presiding, they were tried, found guilty and sentenced to electrocution. The testimony of Hardison was largely instrumental in convicting the other three men.

Hardison, who was tried separately, appealed to the Supreme Court, but his appeal was denied and he was electrocuted at the State Prison in Raleigh on the morning of April 27, 1923. On the morning of his electrocution he confessed to the murder of Cyrus Jones, and stated further that Williams and the Dove boys had nothing whatever to do with the crime.

These three men also appealed to the Supreme Court, but no error was found in the trial of their case, and new dates were set for their electrocution.

Many letters requesting executive clemency for them were written to the Governor. The trial Judge, E. H. Cranmer, Solicitor Powers who had prosecuted them, and H. E. Stacy who assisted the Solicitor all recommended a full pardon. A petition signed by more than 400 of the leading citizens of Onslow County including four jurors, the Swansboro Postmaster, an ex-sheriff, the current Sheriff, the Clerk of the Superior Court, and many other representative white and Negro citizens was sent to the Governor.

A letter of protest was received by the Governor from the mother of Cyrus Jones, enclosing a petition signed by between 500 and 1,000 persons protesting against the change of the sentence of these prisoners.

Governor Morrison's Statement

On January 28, 1923, Governor Cameron Morrison issued the following statement:

"George Williams and Frank and Fred Dove, the prisoners in this

Top—Frank Dove; Middle—George Williams; Bottom—Fred Dove

case, were convicted, together with Willie Hardison, of murder in the first degree at the October term, 1922, Superior Court of Onslow County. Willie Hardison has already been electrocuted.

"A most serious question has arisen as to the degree of guilt of the other three defendants.

"For the reasons set forth in the letter of Judge Cranmer, which is as follows: 'George Williams, Frank Dove, Fred Dove and William Hardison were tried by me in Onslow County for the unlawful killing of Cyrus Jones, and each of them was convicted of murder in the first degree. William Hardison has been executed. You are familiar with the case, and what has occurred since the trial.

" 'I have given the matter serious thought and consideration. I saw William Hardison the afternoon before his electrocution, and talked with him. He stated to me, positively, more than once, that he, alone, killed Cyrus Jones, and that neither of the others aided, assisted, abetted or encouraged the crime, and neither of them knew anything about it.

" 'I have prayed "God of all truth, knowledge and judgment, with out Whom nothing is true, or wise or just" to direct me, and to direct you. Each of us has a duty to perform, and each of us, with Robert E. Lee, believes that "duty is the sublimest word in the language." I know that you have, and will continue to carefully and thoroughly weigh the facts in this case, before reaching a conclusion, and I know, too, that any recommendation will not move you, unless your investigations indicate the same course.

" 'After thought, reflection and prayer, I recommend, my dear Governor, that you pardon George Williams, Frank Dove and Fred Dove.'

"I hereby commute the sentence of death of these three prisoners to life imprisonment, at the present.

"This case requires careful study, as his honor, Judge Hoke of the Supreme Court bench, doubts very much the guilt of these parties, and when a fearless and upright judge like Judge Cranmer entertains the opinion as set forth in the foregoing letter, I hesitate to let the men suffer at all, but I hope that every doubt about the matter can be cleared up, and I shall endeavor, later, to go deeply into the case with a view to determining whether or not the men should be discharged entirely, as recommended by Judge Cranmer."

Petition for Absolute Pardon

In August, 1925, through their attorneys, Williams and the Dove boys petitioned the Governor for an absolute pardon. In their petition they set forth that they were convicted on the testimony of Willie Hardison who, after their trial and conviction, stated on several occasions and once immediately before his execution, in the presence of the Solicitor who prosecuted and the Judge who presided at the trial, that his testimony before the jury that convicted Williams and the Doves was wholly untrue, and that they were innocent and took no part in the murder of Cyrus Jones.

It was further set forth in their petition that the original statement of Willie Hardison implicating them was forced from him under the lash, and under threats of lynching; that as soon as Willie Hardison arrived at Raleigh and was out of the environment which brought about the statement by which they were implicated and had no further motive of hope to clear himself or to get his punishment reduced, he made a full and frank confession without any suggestion or inducement from the petitioners or other persons on their behalf, in which he fully exonerated them and took full responsibility for the crime. This confession

was in the form of a letter written to the Sheriff of Onslow County, and other letters and affidavits, the originals and copies of which are in the office of the Clerk of the Supreme Court.

They also stated that they were not guilty of the crime of which they had been convicted, either as principals or accessories, and had nothing to do with planning or executing the crime, and had no knowledge or information as to it until after the crime had been committed. Hence they prayed the Governor to grant to each of them "a most gracious pardon to the end that they might be liberated and rejoin their families, and live the lives of upright and dutiful citizens as they had done in the past."

Under date of September 1, 1925, the Commissioner of Pardons addressed a letter to their attorneys in which he said, "I regret to advise that the Governor has declined to extend clemency in the case of George Williams, Frank Dove and Fred Dove".

After these men had served almost six years in the State prison, during which time they were model prisoners, maintaining a grade of A, a second petition was presented to Governor McLean in February, 1928, requesting a full pardon for them. On March 1, 1928, the Governor acted favorably on this petition and issued the following statement:

Governor McLean's Statement

"The above named prisoners, George Williams, Frank Dove and Fred Dove, were convicted at the October term, 1922, Superior Court of Onslow County of murder in the first degree and sentenced to death by electrocution.

"The sentence of death in the case of these three prisoners was commuted to a sentence of life imprisonment on June 28, 1923, by Governor Cameron Morrison.

"Mr. Jas. A. Powers, the trial Solicitor, has written a very strong letter relative to this case and states in part as follows: 'In view of all these facts and circumstances and after carefully considering the matter from every standpoint and after having friends, in whom I have confidence in their sound judgment and discretion, to read over all the evidence in the case and give me their honest and candid opinion, I feel that it is my duty from any and every standpoint, legal, moral and spiritual, that I most earnestly recommend that these defendants be absolutely pardoned of the crime of which they have been convicted.'

"There is also on file a strong letter from the trial Judge, Hon. E. H. Cranmer, who states that Willie Hardison who was tried separately for this offense and was convicted of murder in the first degree and has already been electrocuted, was interviewed by Judge Cranmer the day before his electrocution and stated to the Judge positively, more than once, that he alone killed Cyrus Jones and these three prisoners neither aided, assisted or encouraged the crime and knew nothing about it.

"Mr. O. S. Pittman and Mr. Fred B. Pittman, who state that they were among those who arrested the four prisoners, write a strong letter recommending the release of the above named three.

"Mr. H. E. Stacy, who assisted the Solicitor in the prosecution of the case, has written a letter recommending a full pardon.

"Dr. H. F. Blount of Swansboro has also written a strong letter stating that he does not believe that these three had anything to do with the murder.

"A number of the jurors who heard the case have likewise recommended their pardon.

"Relying upon the feeling that seems to exist in the minds of practically all of the court officials who tried this case, the recommendation of the trial Judge and Solicitor, the private prosecution, a number of the jurors, the Sheriff and even the prosecuting witnesses that these three men are absolutely innocent and are now serving and have served for a crime of which they had been convicted upon testimony which later proved to be untrue, and taking into consideration that the guilty party who was electrocuted stated to the Prison Warden that he had sworn against the above-stated three prisoners as a result of which their conviction followed, I am of the opinion that these three defendants should be given an absolute pardon, in accordance with the request of the trial Judge and the trial Solicitor and for the said reasons herein enumerated."

CHAPTER VI

LYNCHING AND MOB VIOLENCE

In any study of capital punishment discussion of lynching should be included, since lynching, mob violence of the worst kind, is itself a form of capital punishment, although an extra-legal one. It represents a violent interference with the due processes of law, and a complete disruption of the procedure by which lawful capital punishment, if deserved, is administered. The obvious victim of a lynching is a person who by the commission—or the alleged commission—of some offense has incurred the ill-will of a community. The invisible victim is the law. Less respect for constituted authority inevitably follows each occurrence of mob rule.

Recently there has been considerable discussion of what constitutes a lynching. It has been urged that victims of riots should be included in lists of lynchings. Compilers of records have found it necessary to have a working definition in order that out of the great mass of information which is collected with reference to crime in its various aspects the particular set of crimes designated as lynchings be placed in a special category.

The definition which these compilers of records have generally used is that "lynching has to do with individuals supplanting the law and acting in defiance of the law". The result is that lists of lynchings have generally included only those cases in which individuals charged with offenses which made them subject to the law have been put to death without due legal procedure, whereas the law should have been permitted to take its course, the victims should have been accorded a trial and the punishment, if any, should have been legally meted out. That is, the idea that lynching is punishment, without due legal process, of persons charged with offenses against the law appears to be borne out by the definitions of lynchings which have been formulated and used during the past 82 years.

In general, the practice of compilers of lynching records has been not to include in such records cases of persons put to death in what are commonly designated as riots. The whole matter would seem to turn upon where one is to draw the line between riots in which there is promiscuous killing of individuals, and lynchings by which particular individuals are seized and put to death for alleged offenses.

It would further appear that a definition of lynching and the categorial distinction, if there is any, between persons killed in so-called lynchings and in riots, are legal matters, questions of law and fact. Consequently, a revision of the definition of lynching, if there is a need for such revision, could most properly be made by a committee of lawyers, representing the whole country; as for example, a committee from the American Bar Association.

On the other hand, since a question of law and fact is involved, a final and authoritative definition of lynching would have to be made by the courts. As for example, a case under one of the present State laws against lynchings might be brought against a county where an alleged lynching had occurred. The case might turn upon the question of what constitutes a lynching and might be carried through all the courts up to the United States Supreme Court. This court's definition and ruling would be final and authoritative.

Statistics on Lynchings

According to *The Negro Year Book* published at Tuskegee Institute, "The lynching record for 1924 was the lowest for any year since records of lynchings have been kept. The next lowest records were in 1917 when the number was 38 and 1923 when the number was 33. The decade 1915-1924, when compared with the previous three decades, was notable for the decrease in the number of lynchings. In the decade 1915-1924, there were 537 lynchings. This was 23.4 per cent less than the number, 701, for the decade 1905-1914; 56.5 per cent less than the number, 1239, for the decade 1895-1904 and 70 per cent less than the number, 1726 for the decade 1885-1894.

Ninety women have been lynched in the United States during the last 40 years.

The two following tables are taken from *The Negro Year Book.*

LYNCHINGS IN THE UNITED STATES BY DECADE—1885-1924

Decade	NUMBER OF LYNCHINGS		
	Whites	Negroes	Total
1885-1894	653	1073	1726
1895-1904	270	969	1239
1905-1914	62	639	701
1915-1924	53	484	537
Total	1038	3165	4203

It will be noted from the foregoing table that the number of white victims has decreased more rapidly than the number of Negro victims.

An indication of the growth of sentiment against lynching is found in the increase, in recent years, of the number of efforts to prevent this form of mob violence. In 1914 there were reported 52 persons lynched and 17 cases of prevention of lynching. That is, there were more than three times as many lynchings as there were cases of prevention. However, in 1924, ten years later, the opposite was true. Then there were reported 45 cases of prevention as against 16 lynchings, more than twice as many instances of prevention than of accomplishment.

REPORTED LYNCHINGS AND INSTANCES OF PREVENTION IN THE UNITED STATES 1914-1924

Year	Number of Lynchings	Number of Lynchings Prevented
1914	52	16
1915	67	19
1916	54	18
1917	38	18
1918	64	13
1919	83	37
1920	61	56
1921	64	72
1922	57	58
1923	33	52
1924	16	45
	589	404

LYNCHINGS IN NORTH CAROLINA 1882-1928

Year	White	Negro	Total
1883	0	2	2
1884	1	3	4
1885	2	3	5
1886	2	0	2
1887	0	3	3
1888	2	8	10
1889	2	2	4
1890	0	2	2
1891	0	2	2
1892	2	3	5
1893	0	4	4
1894	1	0	1
1895	0	1	1
1896	0	1	1
1897	2	2	4
1898	0	4	4
1899	0	3	3
1900	0	3	3
1901	0	1	1
1902	0	3	3
1903	0	1	1
1904	0	1	1
1905	0	1	1
1906	1	4	5
1907	0	0	0
1908	0	1	1
1909	0	1	1
1910	0	0	0
1911	0	0	0
1912	0	1	1
1913	0	1	1
1914	0	1	1
1915	0	0	0
1916	0	2	2
1917	0	0	0
1918	0	2	2
1919	0	4	4
1920	0	3	3
1921	0	4	4
1922-28	0	0	0
Total	15	77	92

According to figures on mob violence compiled by the Department of Records and Research at Tuskegee Institute, there has been a total of 92 lynchings in North Carolina since the year 1882. Fifteen victims of the mob were white and 77 were Negroes, that is, approximately 83 per cent were Negroes and 16 per cent were white.

The year 1907 was the first since 1882 during which there was no lynching in North Carolina. There has not been a lynching of a white man in North Carolina since 1906, and the last lynching of a Negro took place in 1921. During the 21-year period, 1907-1928, there have been 11 years during which North Carolina has been free from lynchings.

The foregoing table shows that the largest number of lynchings in any one year was in 1888, when there were ten, eight Negroes and two whites. The second largest number in any year is five, in 1885, three Negroes and two whites; in 1892, the same proportion; and in 1906, four Negroes and one white. The third largest number is four, in 1884, three Negroes and one white; in 1889, two Negroes and two whites; in 1893, all Negroes; in 1897, two Negroes and two whites; and in 1898, 1919 and 1921 all Negroes.

Experience shows that lynchings can be reduced and eventually wiped out, provided proper methods are used. Although the State has a clean slate only in the last six years, North Carolina during the last decade has had fewer lynchings than any other Southern State, as a result of a policy opposed to all forms of lawlessness. Much of the improvement in this respect which is now seen in North Carolina is due to the lasting influence of Gov. T. W. Bickett. Governor Bickett was the first man in the State to meet a mob face to face and turn it back, and his method of dealing summarily with the members of mobs was strictly followed and strengthened by Gov. Cameron Morrison and Gov. A. W. McLean. There could be cited several cases in which lynchings would have taken place but for the fact that the Governor anticipated the mob and ordered troops to the disturbed locality.

North Carolina has learned that rule by the mob must be met with stern force, and that the outbreak of mob violence must be anticipated and steps taken to prevent it. In the use of troops to forestall lynchings the Governors of North Carolina have had the hearty support of the people of the State. Public sentiment for justice has been strengthened by education along this line. And not only the public generally but the Sheriffs and other police officers also have coöperated with the Chief Executives in maintaining law and order in these cases.

Two recent instances of mob violence and attempted lynching at Asheville and Williamston present outstanding examples of vigorous law enforcement in the meting out of swift justice to members of mobs.

The Case at Asheville

In September, 1925, a mob stormed the Buncombe County jail in an effort to secure and lynch Alvin Mansel, a Negro who was sentenced to death for criminal assault upon a white woman, and whose case history is included among those at the end of this study. Trial of 29 men alleged to have been participants in and leaders of the mob resulted in the conviction of 11, while nine entered pleas of guilty. The trial began with 38 defendants facing the court, out of the 43 that had been indicted at a previous session of the Grand Jury. Nine of these were allowed to go at different stages of the trial when the Solicitor found that he could not make out a case against them because of lack of evidence.

Four sentences to the State Prison, 11 terms on the county roads and five suspended sentences were imposed upon the mob leaders by Judge A. M. Stack who presided at the trial. Herman Banks and Luther Townsend suffered most heavily, each drawing a sentence of from four to eight years in the State Prison. Sam Stroupe and Jeter Bell, both of whom plead guilty, were sentenced to the State Prison for not less than three nor more than five years. Six defendants were sent to the county roads for a period of 12 months each. Other road sentences were for ten months, nine months, six months, six months with suspended sentence of two years in addition, 12 months with privilege of being hired out after two months and payment of a fine of $50.00 and the costs. Five men received suspended sentences of 12 months each and were required to pay the costs in the case, which amounted to a considerable figure.

The final scenes of the trial were enacted in the presence of a court room full of spectators. Several women mounted the bench to whisper in frantic plea to the Judge in behalf of some of the defendants, and their weeping was audible throughout the court room when Judge Stack told them that he felt that he had shown the limit of mercy consistent with the discharge of his duty to the State.

In sentencing the defendants, Judge Stack declared from the bench:

"God save the State that has to depend upon mobs to protect its women. The women of North Carolina do not have to depend upon mobs for their protection, the law will attend to that. What the officers needed down there that night was a few machine guns. North Carolina must put more red pepper in its handling of criminals. There were several hundred people down there at the jail that night and a crowd went to the Sheriff's home, yet nobody knew anybody".

Not long ago, a petition, signed by more than 6,000 citizens of Asheville seeking executive clemency for the members of the Asheville mob, was presented to Governor McLean. The Governor's statement in denying clemency to the members of the mob follows:

Governor McLean's Statement

"Several months ago these men and many others deliberately stormed the Buncombe County jail in an effort to do violence to a prisoner; not finding the prisoner they sought they proceeded to harrass other prisoners and to do injury to the prison and prison property.

"The families of these prisoners have my deepest sympathy. The Commissioner of Pardons, feeling that the families might exhaust their meagre resources in an effort to obtain freedom for the prisoners, went to Asheville and, at the expense of the State, heard their petitions in person. It is an unpleasant duty to decline these applications with the full knowledge of the distress that must result even though the prisoners themselves be responsible. I am sure the good citizens of Asheville, the churches, the civic organizations and others interested in human welfare will see that these unfortunates are provided for. This is a splendid opportunity for the proper exercise of human sympathy, and I am sure the splendid citizenship of Asheville will not fail in the performance of that duty. Those left at home to suffer call far more loudly for the sympathy and assistance of the law-abiding citizens than do those who have deliberately taken the law into their hands. But for the splendid effort on the part of the Sheriff and other officers of Buncombe County, those men would have been guilty of an even greater offense. I cannot commend the action of those officers too highly.

"When the State of North Carolina takes a prisoner into custody it then becomes responsible for his safety and that responsibility remains

until his case is disposed of in accordance with law. A prisoner in custody of the law is entitled to the same protection as is the Judge on the bench, or the Solicitor who represents the State in the prosecution. In this instance the State of North Carolina went to great expense in order that the prisoner in question might be given a fair and impartial trial. The National Guard of the State was called into service at the expense of the taxpayers. The prisoners sought to destroy the very processes of government upon which they now rely. The Governor is the instrument of the law just as the jail is the instrument of the law. They were given a fair and impartial trial and convicted by jurors chosen from their fellowmen. The sentences imposed, it seems to me, were eminently fair and just and might easily have been more severe.

"More than 6,000 persons have appealed to me in behalf of these men, among these I am advised by the Commissioner, are a large number of police officers, justices of the peace, and other officials charged with the enforcement of law. Very probably these persons are moved and animated entirely by sympathy for the wives, mothers and children of the prisoners. Those who are asking for clemency for these men should remember that the crime they committed was one of the most serious known to our law—serious because the sovereignty of all the people of the State was trampled under foot and insulted by the mob when it attempted to take the law into its own hands. In a democracy like ours, the laws, and the courts set up for the enforcement of the laws represent the true sovereignty of the people, because the people can only express their sovereignty through the laws that are enacted by their representatives for the protection of society.

"No question of mere sentiment should enter into a case of this kind. Sentiment should all be upon the side of the people whose sovereignty was insulted.

"I have been much gratified at the outstanding evidence which we have seen in North Carolina in the last few months that our people are determined to suppress mob violence at any cost. It is one of the most refreshing things I have seen. No man can calculate the damage that may be done to the good name and fame of North Carolina by even one lynching, and the only way to suppress lynching is to let those who engage in it understand that they will be punished and punished severely, just as has been done in the Asheville and Martin County cases".

A Case in Franklin County

The following case which occurred in Franklin County shows how a mob bent upon lynching a Negro was circumvented and justice through law was secured for the mob's potential victim. The account of this case is compiled from reports in various newspapers.

At three o'clock one morning in September, 1927, Algy Perry, a resident of Bunn's township, in Franklin County, on entering the room where his wife was sleeping, saw a form rise from the bed and make a wild dash for the open window. He asked his wife who it was. She replied that she had been asleep and did not know that anybody had been in the room except her husband.

Mr. Perry aroused several of his neighbors, procured bloodhounds and started a chase. The dogs were placed on the trail at the window where Mr. Perry saw the retreating form. They went without hesitation, baying as they went, to the house where Weldon Bryant, a Negro, was found. They proceeded around the house to the back door and when it was opened started upstairs where Bryant was sleeping. To make sure that

the right man was found, the men took the hounds back to Mr. Perry's house and again unleashed them. They followed the identical course previously taken. Bryant could give no clear account of his whereabouts during the night and he was arrested and brought to the Franklin County jail.

It was learned that Bryant, who was about 20 years old, had been riding around Saturday night with three other Negroes and that at least two houses had been robbed. All three were locked up in jail with Bryant, but in separate cells. All told conflicting stories.

One of the houses broken into was that of J. W. Acre. Nothing was missing except all the edibles in the kitchen. The dwelling of Robert Wright near Bunn was entered and a pair of trousers containing $20.00 or $30.00 in money and a watch taken.

Although the man who entered the Perry home did not harm Mrs. Perry, her husband returning very quickly, there was considerable feeling in the neighborhood which is 18 or 20 miles from Louisburg.

The following night at 10 minutes before nine o'clock, Sheriff F. W. Justice heard that a mob was forming in Bunn's township to come to Louisburg and take his prisoner from the Franklin County jail. Before nine o'clock the Sheriff had the Negro in an automobile headed for Raleigh. Shortly after 10 o'clock he was notified from Raleigh that the guard had arrived at the State Prison.

Five hours after Sheriff Justice had dispatched his officers to Raleigh with the prisoner, a mob of 100 men assembled at the jail to take Bryant out and lynch him. After surrounding the jail, the mob sent ten of their number to the jail to demand the keys. The jailer told them that the Negro had been taken to the Penitentiary in Raleigh. They demanded the keys anyhow but the jailer refused to give them up.

A fire alarm and riot call were turned in and firemen were soon on the scene, a truck stopping in front of the jail. The half dozen men on it were told by the mob leaders to move on and as they were badly outnumbered, and as the mob was in a truculent mood, firing revolvers at intervals, the firemen decided it was the better part of valor to proceed.

Deputy Sheriff Fuller and Chief of Police B. H. Meadows finally decided to go to the scene and notify the mob of the fact that the man they wanted was not to be had. They had some difficulty in convincing the leaders that they were telling the truth but finally persuaded them and the mob broke up.

It was learned that the members of the local military unit, Battery B of the 113th Field Artillery, had assembled at their armory, and had two machine guns ready for action.

Even had the Negro been in the jail it is believed by the authorities that the mob could have been prevented from taking him.

Early on the following morning a crowd of about 40 masked men came to Louisburg about 1:30 o'clock, presumably for a second attempt to get possession of Bryant. Their first step was to compel the superintendent of the power plant to cut off all the lights. H. C. Leach, night engineer at the plant, saw the crowd coming to the power house, realized their purpose and secreted himself. There was apparently no one in the crowd familiar with the working of an electric light plant. So after a while the crowd went to the home of O. C. Hill, superintendent of the waterworks and power plant. They called him out. One of the leaders stuck a pistol under his nose and ordered him to go to the plant with them. Arriving at the plant they compelled him to throw the switches, thus putting the town in darkness.

They went to the house of Township Constable J. A. Wiggs, who was one of the party of officers who accompanied Bryant to Raleigh several nights before. Mrs. Wiggs, when awakened, told the men that her husband was not at home but was off on a raid. They refused to believe her and went to the garage to see if the constable's car was there. It was not. The masked men then left.

They also visited the home of Deputy Sheriff Fuller who also was in the party that took Bryant to Raleigh a few hours before the mob, 100 strong, came to Louisburg determined to take the Negro out and, no doubt, lynch him. No effort was made, however, to arouse the Fuller household, the marauders hanging around for a time and then departing. Naturally the families of both the officers were considerably frightened. In the meantime Night Policeman C. E. Pace had aroused Chief of Police B. H. Meadows. The two started on a tour of investigation, but the mob had driven off when the policemen arrived.

Constable Wiggs had left Louisburg at 8:30 o'clock for Raleigh to get Bryant and bring him back for a preliminary hearing. When Deputy Sheriff Fuller saw that the mob had not given up its purpose to make trouble he telephoned the State's Prison with instructions to Wiggs not to bring the Negro to Louisburg. The hearing was abandoned and the matter left for Grand Jury action at the October term of court.

A rigid investigation as to the identity of the members of the mob was begun and attempt was made to find those persons guilty of acts of lawlessness and to mete out punishment to them. The people of Louisburg pledged their best efforts to see that the members of the mob were identified and brought into court. Great difficulty was experienced however, because of the fact that O. C. Hill, the only man who came in close touch with the mob, was unable to identify any of them. He said they wore masks but no robes.

Because public feeling was so high in Franklin County as to prevent an impartial trial, plans for the preliminary hearing were abandoned because of fears for the prisoner's safety and Judge Stack ordered the trial transferred to Wake County Superior Court at Raleigh.

At the trial held in Raleigh, Bryant, who had been twice sought by mobs at the Louisburg jail, and who, in the opinion of the authorities, is living now solely because he was brought to the State Prison in Raleigh for safe-keeping, was found not guilty of the charge of criminal assault, the jury bringing in a directed verdict.

The first breakdown in the State's case came upon the prosecutrix's evidence, at the close of which Judge Sinclair directed that the charge be changed from that of a capital felony to that of having improper relations with a female by impersonating her husband. Complete collapse of the State's case was registered when attempts to identify a cap near the scene as belonging to the defendant failed, and when Judge Sinclair ruled out "bloodhound evidence" on the ground that the breeding of the dogs had not been established and the further ground that such evidence is admissible only in corroboration and that the State had offered no other evidence of identification.

"Undoubtedly there has been an outrage committed, but this case has reached the point where it can go no further," declared Judge Sinclair in announcing his action to the jury. "Evidence of bloodhounds is admissible only as corroborative evidence and the State has presented no evidence of identification which such evidence could corroborate."

W. H. Allen, owner of the blood hounds and a former sheriff of the county, was detained by sickness, and R. R. Barnhardt, his assistant, was unable to establish the pedigree of the dogs.

Mrs. Perry testified that during the occurrence, which took place in her bedroom which was also occupied by her mother and three children, one of whom was in bed with her, she thought the intruder was her husband, who together with his aunt, was occupying an adjoining room.

Mrs. Perry said that she did not look up, even when the man hurriedly left the bed and the room which was lighted, and that her first intimation that it was somebody else was when her husband, who had been out of the house, called her into his room and asked who had left her room.

At this juncture, Judge Sinclair ordered the charge modified and a little later dismissed the case when two Negroes, one of them the brother of the defendant refused to identify a cap found on the Perry premises as belonging to the defendant.

Bryant spent his first night of freedom in jail upon the advice of his attorney. The following morning he was released in the care of the State Board of Public Welfare.

In view of the fact that in the orderly process of law in 35 cases of Negroes convicted of rape the Governor extended executive clemency to 15 of this number after they had been sentenced to death in the electric chair, it is safe to venture the opinion that an equal proportion of alleged rapists who have been victims of the mob would not have been put to death if they had had a fair legal trial, by which their guilt or innocence could have been decided on the merits of the evidence presented in a dispassionate, judicial atmosphere.

Summing up the subject of lynching and mob violence in North Carolina, it may be said that the State has in large measure, especially in recent years, met the challenge presented to the South since the Negro was freed from slavery; and that in its battle against lawlessness and mob rule North Carolina has set an example for other States in stimulating the development of an educated public opinion and a wholesome respect for law and order.

Case Histories

FOREWORD

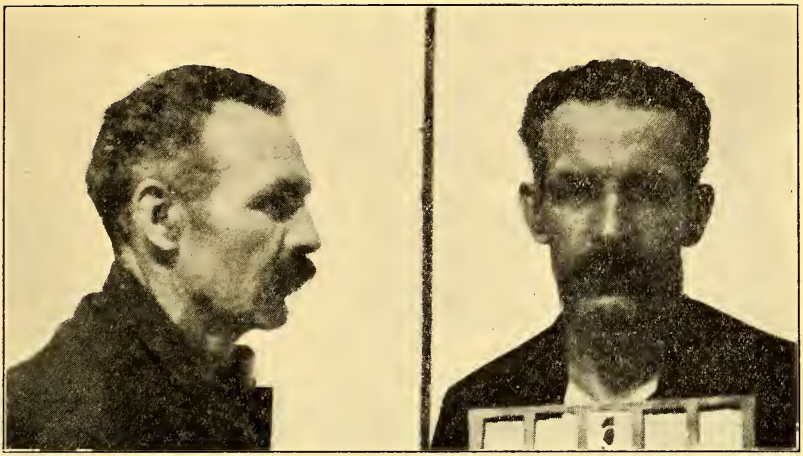
The prisoners whose case histories are presented in the following pages do not represent a selected group, except on the basis of conviction for capital crime. They are 26 men who have been convicted of capital felonies and sentenced to death in North Carolina during the last few years, and regarding whom data could be secured. They were not chosen to emphasize any special aspect of the infliction of capital punishment, nor any special sort of capital offender, but as representing a typical group of criminals sentenced to be electrocuted in this State. Except in the cases otherwise designated, all these prisoners are at the State Prison or the State Prison farms.

Intelligence tests were given these men by the psychologist connected with the State Board of Charities and Public Welfare, or by other reputable psychiatrists. The tests most frequently used were those of the Binet-Simon Intelligence Scale as arranged by Lewis M. Terman, professor of education at Leland Stanford University.

For the benefit of the general reader it should be explained that, according to this scale, certain tests for measuring intelligence have been formulated, grouped with respect to age. That is, there are tests which the average child of, say, six years can answer satisfactorily, which the superior child of six can answer much better, and on which the subnormal child of six fails. The tests run up to the 18-year-old group. In this way the mental age of the person tested can be ascertained. The intelligence quotient is the ratio which the mental age disclosed by the test bears to the chronological age of the person tested. The intelligent quotient of the normal person is between 90 and 110.

These tests have been extensively used by psychologists, educators and criminologists, and by means of them much illuminating data relative to the criminal has recently been obtained.

CASE A



Prisoner: White. b. New York, Aug. 24, 1875
Charge: First Degree Murder
Sentence: Death
New Trial Sentence: Life Imprisonment
Transferred to State Hospital for the Insane at Raleigh
Present Location: State Prison
Mental Diagnosis: Cerebral Arterio-Sclerosis.

Physical Characteristics:

The prisoner is five feet, 10 inches in height; weighs 150 pounds; has blue eyes, gray hair and a long gray moustache. At present his appearance is fairly good. He is 53 years old, having been born in New York on August 24, 1875.

Physical examination showed that although the prisoner has been poorly nourished, he is well-developed. He has gained weight since institutional care began. His teeth were in poor condition and his mouth unhygienic. His Wassermann test was negative.

Family History:

He does not know where either his father or his mother were born, but says that his father worked in New York as a machinist. His father died of "brain fever", but the prisoner does not know the cause of his mother's death. He had no brothers, but his three sisters were born in New York. One of them committed suicide and the two others died of tuberculosis.

Early Home Conditions:

The income of his family was so small that it was necessary for the prisoner to sell papers from the time he was old enough to do so until he reached the age of 12 years. Among the papers which he says he has sold are *The New York World*, *The Herald*, and *The Journal*.

Education:

He attended school one year in New York. When he was 12 years

old, the family moved to Philadelphia where he went to school one year. He says that he has attended night school some since that time.

Occupations:

After his father's death he left home and went to Buffalo, N. Y., where he lived with an uncle. He worked there three or four years in an iron foundry and then returned to New York City. There he worked as brakeman on a railroad until he was injured. Following this, he worked as janitor in two apartment houses, and worked for nine months on a passenger boat running between Long Branch, N. J., and New York City, and then for two seasons on the lake boats with headquarters at Buffalo.

Since he came to North Carolina his work has been mostly with lumber companies. In this he appeared to be dependable, was well liked and showed no trace of mental disorder. While Postmaster in his town for a time, he became short in his accounts. Following this, he shot himself in the lower part of the left chest.

Marital Record:

About 1898 he married a girl 18 years old who had been born in England. They had two children, both of whom died in early infancy. This wife died in 1910. After her death, he says, he decided to come to North Carolina to avoid temptation to drink. He came to a northeastern county in this State where he married again about 1913. By this wife he had three girls and two boys, all of whom are living at present.

Habits, Characteristics and Reputation:

He says that he used alcohol excessively from his early youth until he was married the second time in 1912 or 1913. He denies any immoral sex relations and also says that he never used drugs. He smokes and chews moderately.

As Deputy Sheriff in the county in which he lived in North Carolina he was very active in attempting to suppress liquor traffic, it is said. He claims that his second wife worried herself to death because bootleggers were constantly trying to kill him. He was also actively engaged in religious affairs, and was for a time a Sunday School teacher. It is reported, however, that he continued to drink excessively while engaged in these activities.

Story of the Crime Charged:

An adopted daughter lived in his home until just prior to the murder for which he was convicted. It is understood that she left his home and went to live with a near neighbor because of his excessive drinking and because he had made improper sex proposals to her.

Although the examiner was unable to get any information from the prisoner regarding the crimes he had committed, it is generally believed in the neighborhood that he became enraged because his neighbors, a man and his wife, took this girl into their home. After they had done so, the prisoner walked over to the neighbor's house, shot and killed the man and his wife, and attempted to shoot the girl.

After the prisoner had been received at the State Prison, and while he was waiting to hear from his appeal for a new trial, he attempted to commit suicide by setting fire to his bed clothing. His mental condition grew worse after this, and he was finally granted a new trial. He was then sentenced to life imprisonment and placed in the criminal insane department of the State Hospital. Recently his condition has

improved so much that he has been returned to the State Prison where he is working regularly in the chair factory.

Mental Condition:

The following report on the prisoner's mental condition is quoted from the record of the State Hospital for the Insane:

"ATTITUDE AND MANNER: The prisoner appears to be about 55 years of age and at the time of this examination showed no evidence of untidiness. He wore prison clothing in such a way as to indicate that he exercised reasonable care in adjusting same. He was aided to the room in which the examination took place from his cell by a fellow prisoner. The general appearance of the man suggested that he was in ill health and his facial expression denoted marked dejection alternating with looks of anxiety; frequently stared into space as if oblivious of the things about him. On one occasion during the interview he left his chair and assumed a seat on the floor, stating that he did this in order to rest better and to relieve the pains which were affecting his legs. On another occasion he called for his children and then seemed to make every muscle in his body tense. Following this he fell head first out of his chair to the floor. As far as could be ascertained no acceleration of pulse occurred and it is not definitely known whether he became unconscious or not. If he did become really unconscious it was transitory and he was soon able to regain his seat. He would very frequently lose control of himself emotionally and cry, at the same time calling for the above-mentioned children. Made no spontaneous complaints or request except he stated that he wished to have his children visit him. No unusual movements noted apart from the above and no evidence of stereotypy. No cerea flesibilitas or negativism but was observed to be a little stiff in his movements. It appeared to the examiner that patient was unable to get a sufficient grasp of the activities going on about him to aid satisfactorily with this interview, although it cannot be said that he wilfully tried to hinder the examination. His attitude toward the physician was at all times friendly and courteous.

"CONSCIOUSNESS: Patient recognizes objects which are drawn to his attention and no definite consciousness was apparent. He does, however, act in a rather retarded manner and his answers to questions to determine consciousness were given slowly as if he did not comprehend the question or the object asked about. If given a sufficient amount of time, he is usually able to execute the test correctly.

"ORIENTATION: Patient states that his home is in _____ County, Carolina; would not say whether North or South Carolina. He states that he is under the impression that he is now in the 'crazy house' but has been told that the place in which he is now residing is the State Prison. He claims that he does not know the nature of his surroundings. Gives the date as 1926. No other information relative to time elicited. He is able to give his own name and that of the prison physician and a guard at the prison. Is approximately oriented for person.

"ATTENTION: It is extremely difficult to gain, hold and direct patient's attention. He stirs about the room and takes no particular interest in the examination procedure. Although he is not distractable by outside influences, he seems mentally preoccupied. It is necessary to stimulate him at frequent intervals to get him to answer questions or cooperate with the examiner.

"EMOTIONS: Patient is emotionally unstable. He very frequently breaks down and cries when sensitive subjects are approached. His

general appearance has never indicated, since he has been under observation, that he has been exhilarated or even cheerful.

"TRAIN OF THOUGHT: Conversation is extremely slow and is always in a whisper. He has no flight of ideas. Answers questions in a relevant and coherent manner except when speaking of his delusional and hallucinatory experiences. Seldom, if ever, has any initiative in conversation.

"MEMORY: Patient states that he came from _____ County, but does not know how long he has been here. He denies any knowledge of what occurred shortly before his admission to the State Prison. His attention is called to the fact that he was accused of killing two persons, but he stated that he had no recollection of having done this. Although the examining physician has seen him on three previous occasions during the week of this examination, he denied that he had ever seen the physician before. He stated that he remembered that a blood test had been done two or three days ago and knows that this was done in the afternoon. His answers to questions asked him to determine his memory would surely indicate impairment both as to recent and remote events. As to whether this impairment is real or apparent must be determined by the findings of the entire examination.

"GRASP OF GENERAL AND SCHOOL KNOWLEDGE: Patient made several mistakes in the 7 from 100 test. States that $2 \times 12 = 24$; 7 from $100 = 90$; $7 + 100 = 97$; $5 \times 12 = 50$ or 55; $12 + 11 = 23$. Gave the capital of New York as Buffalo. Capital of United States, Washington. Capital of North Carolina, Halifax. State to the north of North Carolina, Virginia; named Ontario and Erie as two great lakes. Gave the date of the Civil War 1865. Gave the names of Lee and Sheridan as ones who took part in the Civil War. First President of United States, Washington; President of the United States at the present time, Wilson; Governor of North Carolina, Morrison. Did not know the names of the Senator from New York or North Carolina. Did not know the longest river in the United States.

"DELUSIONS: The following ideas expressed by the prisoner, if genuine, could be classed under the heading of delusions. He stated that he had been fighting the illicit liquor ring in Halifax County for the past five or six years and that on four or five occasions he had been shot and wounded by its members. He states that they are indirectly responsible for the death of his wife who became worried over his welfare because of the fear that the bootleggers would do him some harm. He states that they burned his house and stole his children. He also contends that they have in the past sent him threatening letters and he also feels that they had him sent to his present place of incarceration. According to his statements, it is his opinion that they are desirous of getting him out of the way in order that they could be free to carry on their illegal traffic in liquor. He explained to the examiner that these persecutors had followed him to the place in which he is now residing and are continuing their persecution.

"HALLUCINATIONS: The prisoner states that about ten years ago that he heard the voice of God who directed him to live a better life and to become affiliated with the church, which patient did. Has had communications with God at intervals ever since this time. He states that the liquor dealers of _____ County, who are responsible for his incarceration, come to his room practically every night where they threaten and abuse him. He also claims that his children visit him and that he can hear their voices in the neighborhood of his cot. Has never seen his children, but claims to have seen the bootleggers.

"JUDGMENT: Patient's answers to questions asked him to determine his judgment would naturally lead one to think that his reasoning powers are impaired. He claims to be unable to arrive at a conclusion as to the nature of his surroundings after being able to recognize cells, barred doors and the usual equipment of a prison. States that all of this has no meaning at all to him except probably to suggest a place for the care of the insane. When asked the day of the week, he readily stated that it was a week-day and that he knew because men about the place were busily engaged in work; says that it is unusual to see anyone at labor on the Sabbath. He claims to have no knowledge of the nature of his surroundings; in fact, told the examiner that he had seen a considerable number of insane patients about the building.

"INSIGHT: The prisoner denies that there is anything wrong with him mentally.

"DIFFERENTIAL DIAGNOSIS: There are three conditions which stand out prominently in the case of this patient, and are as follows: First, Involutional Melancholia. Second, Cerebral Arterio-Sclerosis, and third, Senile Psychosis. It is generally considered that Cerebral Arterio-Sclerosis is the intervening link between Involutional Melancholia and Senile Psychosis and, therefore, it is to be expected that the symptomatology of their diseases are to be found more or less interwoven. In his case it really reduces itself to the problem of selecting the predominance of symptoms. In either case in addition to the mental manifestations present, there are to be expected certain physical signs. The majority of the organic symptoms which he has indicated an arterial disease and with his mental disturbance they together point to some cerebral vascular changes. It is unnecessary to enumerate the various symptoms given above; suffice it to say the examiner is of the opinion that the prisoner is suffering from Cerebral Arterio-Sclerosis and the disease of necessity has had a long prodromal period. This diagnosis answers the legal question envolved.

"DIAGNOSIS: Cerebral Arterio-Sclerosis".

CASE B

Prisoner: White. b. Eastern N. C., Oct. 1878
Charge: First Degree Murder
Sentence: Death
New Trial Granted by Supreme Court
Charge: Second Degree Murder
Sentence: Imprisonment for 30 Years
Mental Diagnosis: Feebleminded.

Physical Characteristics:

The prisoner is rather short and stocky, only five feet, four and a half inches in height, weighing 162 pounds. He has a heavy growth of brown hair, an almost square face and brown eyes. His left eyelid droops. He has a history of gonorrhea. He is 50 years old, having been born in an Eastern North Carolina county in October, 1878.

Family History:

His father and mother and his paternal grandfather were born and lived in the county in which the prisoner was born. He said that he thought that his father died of paralysis and that his mother died of asthma. His father had four brothers and three sisters. One of the brothers was a heavy drinker. One brother and two sisters died of paralysis, and another brother, it was thought, died after having his throat cut. His mother had four brothers, two of whom died of asthma and another of whom was an epileptic.

The prisoner had four sisters and one brother. One married brother and two single sisters live in the home county at the present time. Another sister married into a very respectable family in a nearby city and another married sister died in childbirth in Florida about 1917.

Education:

The prisoner says that he went to school only about three weeks.

Occupation:

Ever since he left school, for about 30 years, he had farmed on land

which belonged to his parents, going frequently to the little county seat not far away.

Marital Record:

He has never married, but has been very promiscuous in his relations with women.

Habits, Characteristics and Reputation:

He was well known at the county seat and in the rural community. He always appeared to be pleasant and was regarded as being a sort of harmless half-wit. His rating in the State Prison is Class B.

Story of the Crime Charged:

At the time of the crime the prisoner was living at the home place with his two unmarried sisters. Ill feeling had arisen between him and a neighbor over the location of a road. It is claimed that the prisoner shot the other man after he had been threatened by him. He was charged with and tried for first degree murder, and was sentenced to be electrocuted and spent some time on death row at the State Prison. However, a new trial was obtained on account of the prisoner's mental condition, in view of the fact that the jury had rendered a verdict of guilty with a recommendation of mercy. At the second trial he was tried for second degree murder and was sentenced to 30 years in the State Prison.

Mental Condition:

The examiner who recently studied the prisoner made the following statement:

"It was impossible to give this case a complete Terman examination because of the uncooperative attitude. There was no antagonism on the part of the subject, but a complete lack of interest in the proceedings and an unwillingness to make an effort. In all the few responses that we were able to secure, as well as in the conversation, which was quite free, there was a remarkable lack of emotional tone and absence of modification or inflection of the voice. It is possible, of course, that the mental condition of the case may be the result of deterioration. However, the general picture presented seems to indicate rather a simple condition of feeble-mindedness.

"Of the tests to which we were able to secure responses adequate for scoring there was failure in the repetition of four digits at the four year level; inability to name the colors blue and green at the five year level; failure of two out of three of the comprehension tests at the six year level; but passage of the right and left test and the coin test at the same level; passage of the fingers test at the seven year level; failure of the counting test at the eight year level; but passage of the comprehension, similarities and definitions test at the eight year level; passage of the change and date tests at the nine year level; failure of the comprehension test at the 10 year level; and of the similarities test at the 12 year level."

CASE C

Prisoner: White. b. near Va.-Ca. line, Aug. 20, 1871.
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Present Location: State Hospital for the Insane at Raleigh
Mental Diagnosis: Manic-Depressive Psychosis.

Physical Characteristics:

The prisoner is six feet, one inch in height; weighs 147 pounds, carries his head erect; has round shoulders, high forehead, prominent nose and chin, light brown hair and blue eyes. He is 57 years of age, having been born in a Piedmont county of North Carolina near the Virginia line on August 20th, 1871.

The general physical condition of the prisoner is good at present. He gives a history of pellagra and gonorrhea and the usual diseases in childhood, some rheumatism and fainting spells in childhood. He has had occasional vertigo, especially since his mental trouble began. He also tells of a burning sensation which felt like electric shocks. In an attempt to relieve this he used to put wet towels on his back.

His poor health at the time of the murder he thought was due to the fact that he had had malaria in Cuba while serving as a soldier during the Spanish-American War. Because of this he continues to draw a pension from the Federal government.

Family History:

His father was born in Virginia and his mother in North Carolina where his parents lived at the time the prisoner was born. Both parents are now dead. The mother died in labor and the father died of meningitis when the prisoner was 14 years old. One sister died of tuberculosis, another died of scarlet fever at the age of six, and one brother and one sister are now living.

An aunt, although never confined in an institution, was temporarily insane. There was no epilepsy and very little alcoholism in the family.

Occupations:

At the age of 17, the prisoner went to work on the railroad in order to keep his sisters and brother in school. He says that he had the responsibility of these children for several years.

He served as a soldier in the Spanish-American War, and after this worked in the Northern states for a time. Later he worked in the Naval Observatory in Washington.

His most recent occupation was as insurance agent in a Virginia city. When he first went there it seems that he was in fairly good circumstances. Prior to this he had been engaged in various kinds of mercantile business. His employment as insurance agent had just ended when he shot his wife.

He changed jobs frequently and in at least two instances his employer let him go because he talked so much about his domestic troubles.

Marital Record:

He married his first wife when he was working in Washington. After that they lived in New Hampshire for a time, and then came back to Washington where his wife died of acute nephritis. By her he had four boys and one girl. He managed to keep his children together, and later came to Virginia. He then married a woman who grew up in the same community in North Carolina in which he had been born. At the time of this marriage he was 41 years old, while his wife was only 21. He says that he knew his second wife as a little girl, and that he had known her people all his life. By her he had three girls.

Soon after his second marriage, a son to whom he was very much attached died. After this he moved to another place in Virginia, near the North Carolina line where he was living when he shot his wife at her former home in North Carolina, and where his domestic troubles seem to have started. After the death of his son his wife left him, and wrote to the secretary of a lodge of which he was a member saying that her husband was not taking care of her financially. He says that his wife left him frequently without giving any reason—merely saying that she was going home. Her mother and sisters were constantly trying to persuade her to come home, according to the prisoner.

Habits, Characteristics and Reputation:

Although he is rather a pleasant conversationalist, all available information seems to show that the prisoner has for years been a manic-depresseive personality and that his condition probably was aggravated by a series of unfortunate events: the death of his first wife; the death of his son; and the fact that his second wife had left him several times, taking the children with her. In addition to this he had received an insulting letter from his brother-in-law, hinting that he had been having relations with the prisoner's wife who was then staying at the home of her parents. The prisoner brooded on this for three years, and probably went to his wife's home to kill the brother-in-law.

A doctor who for more than five years had been the prisoner's family physician in the Virginia city in which he lived says:

"During this period of time I was frequently in the prisoner's home professionally and saw him at other frequent intervals. Soon after I met him he lost a son, which was a great shock to him, and from which he never seemed to recover so far as his general mental equilibrium was concerned. He had many financial reverses after I knew him, but always made an honest effort to meet his obligations. . . . He impressed me as being physically weak, high-strung, temperamental, honest, conscientious, and, I may say, a religious fanatic."

From another source it was reported that when his child died, he became very morbid and depressed and threatened to do violence to the physician.

In talking about his mental trouble, the prisoner states that he has had several attacks of mental derangement, but that the events which took place at those times are rather hazy in his mind. However, he does remember a few incidents very clearly relating to the cause of the murder.

Soon after the commutation of his sentence for murder he had another attack of insanity in the State Prison and was transferred to the State Hospital for the Insane at Raleigh. During these attacks, he says, he felt as if he were being shocked by electricity. He could see Christ and His angels in his room and he could look out of the windows and see thousands of people. He heard voices saying that they were going to kill him.

Since his admission to the State Hospital he has had other attacks. At the time he was admitted he was so depressed that he remained in bed for several weeks. At present he is quiet and well-behaved, and is not depressed or seclusive or abnormally talkative.

The prisoner says that he holds no ill-feeling toward anyone—that he feels better than he had in many years, and that he is no longer depressed because he has come to the realization that life is a mental problem. He says that he has given his life to God and that instead of becoming depressed about his own troubles he now does his best to get others to see life as he sees it. He does not feel that his freedom is restricted although he is in prison, as he feels that his mental attitude has now made him absolutely free. He writes his children that he hopes they feel as free as he does.

His children who are old enough write to him, and he thinks they all have a great deal of affection for him. Two of them come to see him frequently.

Story of the Crime Charged:

The prisoner says that he received a very insulting letter from his brother-in-law, stating that the prisoner's wife, who was away from her husband at the time, was having improper relations with him (the brother-in-law). This letter, copied from the court record, is as follows:

"_____, N. C., July 14/21.

"Mr. Yellow Bat Hound:

"Dear Sir: If you had as many guts as a snake you wood come over and show your ball head. I hope to see you real soon. I sure do enjoy your wife being with us and if you can help yourself, come over and do it. You haven't got ther nerve, have you, Red Head. Now, if I have wrote something you do not like, come and bring it to me and we will straten it up.

"Rsp,
(Signature)

"P.S.—Good-by till I see you Pat, Ha Ha; can you help you self."

The murder took place three years after this letter was received. The prisoner says that when he got it, his first impulse was to kill his brother-in-law and he went so far as to purchase a revolver; that he thought and prayed about the matter and tried to avoid temptation, but worried for three years about the letter and what he should do about it.

When the shooting occurred, his wife had left him and had gone with the children to her home where the brother-in-law and his wife also were living. One day he went to his wife's home to see her and the

children. He says that his brother-in-law attacked him that afternoon. On the night of the same day the murder was committed; and although the prisoner does not remember much about the incident, he says that he believes he started shooting at the brother-in-law, and hit his wife who was in direct line of fire. She died almost immediately. The brother-in-law and his wife also were wounded.

He was sentenced to be electrocuted, but on the day before the date set for the electrocution his sentence was commuted to life imprisonment.

Recommendation of Commutation:

In recommending that his sentence be commuted to life imprisonment, the trial Judge wrote in part as follows:

"I observed the defendant closely. He impressed me as a man of a highly nervous disposition, one who had possessed more than average intelligence, but his attitude was that either of one who had committed a crime for which there was no remorse of conscience or regret for consequences, or as one who did not realize fully the gravity of the situation.

"From the evidence developed, the defendant prior to his act had received in due course of mail a letter purporting to have been written by his brother-in-law, and which unquestionably the defendant thought was written by him, although the authorship thereof was denied. The contents of this letter were such as would arouse animosity against the brother-in-law and the jury might have adopted the contention of the defendant that his purpose in visiting the scene of the tragedy was to take revenge upon his brother-in-law for a supposed breach of morality upon his part, which in my opinion, from the evidence, did not occur, but which the defendant evidently thought had, and that acting under such suggestion his possible purpose was to take the life of the brother-in-law alone, but when finding the brother-in-law and the wife and others together, sudden passion was aroused as toward the deceased, and acting thereon he took her life, which might have meant murder in the second degree".

Symptoms of the Manic-Depressive:

The following description of the manic-depressive personality, such as the prisoner, is taken from *Abnormal Behavior* by Irvin J. Sands and Phyllis Blanchard.

This type of personality "is subject to marked fluctuations of mood. It swings in alternate cycles of elation and depression. In the elated mood the person is talkative, facetious, restless, over-active, impatient and perhaps a trifle boisterous. The opposite phase is one of sadness or depression, in which the patient is quiet, retarded in thought and movement, is oppressed by a feeling of sorrow and even of guilt, blaming himself for all sorts of acts which were in reality innocent enough in their intent, and at times inclined to be morose or tearful. The Manic-Depressive temperament is also inclined to irritability and uncertain temper.

"Whenever any situation arises which requires considerable tact, judgment, and increased capacity for adjustment, an attack of psychosis may result. . . . Diminished physical endurance following illness, business troubles, unhappy family incidents and at times an unexpected happy occurrence may precipitate an attack."

The usual types of this psychosis are the manic phase, the depressed phase and the mixed phase.

In the manic phase, the patient "lacks control of his instinctive re-

actions, which results frequently in many anti-social acts such as sexual indiscretions, assault, minor crimes and misdemeanors."

In the depressed phase, suicide is the most serious danger, "and suicidal attempts are very common. Occasionally, because of the gloomy attitude these individuals have toward the world in general, they inflict serious injuries upon members of their immediate family in their attempts to relieve them from their imaginary troubles."

In the mixed phase there is "a combination of the symptoms exhibited in the manic and in the depressive phases. In this condition one must guard against homicide".

CASE D

Prisoner: White. b. Georgia, 1873
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Present Location: State Prison Farm
Mental Diagnosis: Definite Psychosis, Probably Paranoid Dementia Praecox.

Physical Characteristics:

The prisoner is a man of medium build, five feet, eight inches in height, and weighing 170 pounds. He has blue eyes, mixed gray hair and a short moustache. His face presents a rather wild and dissipated appearance. He is 55 years of age, having been born in Georgia in 1873.

His mother states that he was small and very "puny" until he was 17 years old, and that he had some sort of "spells".

Family History:

He seems to know nothing of his paternal grandparents, but states that his maternal grandparents were born in South Carolina. It is not known whether or not there were any abnormalities in his grandparents or parents. His father, who was born in Georgia, died of pneumonia about 1892 in Texas. His mother, who was born in South Carolina, is now living in the town in which the crime was committed.

The prisoner had three brothers and two sisters. One sister died when she was 18 months old, and the other died at the age of six years. Two brothers died in infancy, and one who is about 30 years old now lives in the town where the crime was committed.

Education:

The prisoner had gone to school only a little in the South Carolina community in which he grew up, and has practically no education.

Occupation:

At the time the murder was committed, the prisoner was employed as a laborer around a mill in the Southern Piedmont section of North Carolina to which he had moved from South Carolina.

Marital Record:

In July, 1915, the prisoner married a woman 23 years old who, he says, had been sexually promiscuous like himself, with whom he had had relations, and whom he had promised to marry if she became pregnant. When she did so he kept his promise. They have a son, born December 3, 1925. The prisoner is not certain where his wife and child are living at present. He says that his wife was untrue to him and had relations with the co-defendant in his trial.

Habits, Characteristics and Reputation:

The mother of the prisoner says that he was easily influenced and many people of his community thought him to be of low mentality. His employer at the mill says of him:

"He was connected with a family that had been recommended to me as being trained hosiery mill help. I hired the family, a combination of brothers, sisters and first cousins, about five or six in all, and very quickly found that the whole family from both a moral and intellectual standpoint were of too low order to fit into our mill village and village life, so I put them out of our village and out of employment in the mill all excepting the prisoner whom I regarded as an inoffensive 'nut', using him for an ordinary laborer."

This employer who knew the prisoner well gave the following description of his behavior while he was working for him:

"At times I have found him in very depressed spirits, standing around talking to himself and crying, with tears flowing down his cheeks.

"At other times I have found him in a very hilarious condition and just as excited over some imaginary pleasantness as he had been over some imaginary wrong".

At the time of the examination the prisoner had given no trouble and was in Grade B.

Story of the Crime Charged:

The murder, for which the prisoner was tried and convicted in March, 1926, was committed on October 30, 1925. According to the evidence offered by the State, the body of a man was found in a barn with the head, feet and arms cut off. The body was about the size of B, a resident of the county who had disappeared, and while the identity was not apparent, the body could be identified as the body of a white man.

Prior to the trial, the prisoner made two sworn statements to a detective regarding the crime. These statements were as follows:

No. 1. "Defendant being duly sworn, says, 'On the night of the 30th day of October, 1925, A and me started opossum hunting toward Opossum Ridge and when we got near the barn that was burned we heard somebody laughing and talking and we went to see who it was and we found B there by himself and he was pretty drunk. A took a drink with him and B tried to make me drink and I would not drink and he said he would make me, and I dashed around A and when I did A hit him and when he did B fell and I said, "You have killed him." I said, "I wonder if he is dead," and I hit him with a little stick to see if he was dead. He did not move and A said, "We haven't half killed him yet," and A went to the car and got a knife and saw and sawed off one of his feet and then he sawed off the other leg. And

then he sawed off his arms; then he told me to hold his head, he was going to cut his head off and unjoint it. And I held his head and A cut his head off with the knife.

" 'Then he took a piece of burlap sack and tied up his head, feet and hands in it and we took it to near C's place or farm and put them under some rock in a briar patch, and he left them there for three or four days and then he wrapped them in a piece of new sacking and came to me and told me where they were, and the first cold rainy day in November I took them and went to the school building where my brother was firing for the school, and I went in at the back door of the basement and he was upstairs and I cut the sack open and threw them back in the furnace and stirred them up in the coals, and I went up and called brother and he said, "I am busy now I will be down after a little while," and he told me to shovel some coal in the furnace.

" 'I went back and waited for about a half hour or more and he did not come and I went out at the same door I went in at and started to go on by his house and I met him about half way between the old and the new school buildings. He asked me where I had started and I said I was going on to his house and see how my mother was. He did not know what I had done. He said it was about dinner time and I went to his house and eat dinner and went on home.

" 'In three or four days later I went back over to the school building and went by the ashes that had been taken from the furnace and could not find any bones in them, and I stayed over there that evening and helped brother sweep out the buildings and clean up around the school. After we cut B up we took him and put him in the barn and A told me to watch for him while he packed him away in the barn. He put him up on a box and covered him with corn tops and straw.

" 'We found a quart bottle that had had whiskey in it and a pint bottle with some whiskey in it. All of the killing and cutting the body of B was done between eight and 10 o'clock on the night of October 30, 1925. From what I could see, I think A searched over his body while he was covering B up. He then pushed the piece of tin back down that we pulled off to put him in. Then on Saturday evening, October 31, 1926, about 5:30 o'clock, A said to me "Let's go and get some liquor." And I went with him and we went up to the old barn. He said, "Do you want some?" And I told him I might later on. He went to the barn and pulled up the same piece of tin and reached in and pulled out something from the left hand side and put in his overcoat pocket, and then reached to the right hand side and got something and put in his overcoat pocket. I said, "Are you ready?" He said, "All but lighting my cigarette." And he struck a match and lit the cigarette and threw the match down on the straw and it begun to burn the straw and I said, "Are you going to let it burn?" And he said, "Let her go."

" 'And we left and went over to the Southern Railroad and come down the railroad to the culvert and we saw some people coming and we turned down from the railroad to near the creek to keep from meeting anyone, when we got back to the mill houses we saw nobody ahead of us and we got back on the railroad track and come on down to near the lock switch where the Southbound and the Southern railroads cross. And A went on the street leading out by D's store and I come on to brother's and found nobody at home. I then come on up town and bought some packages and went on home. On Sunday evening, the first day of November, 1925, I went home with my mother to my brother's and at this time I think it was I gave my brother $125.00,

that I had worked for the company and made and asked him to keep it for me. A said since he killed him he wanted his money and his liquor too if he had any.' "

No. 2. "Defendant, being duly sworn says on night of 30th day of October, 1925, he had been to a store and B (the deceased) spoke to him and he invited him home with him but he said he was going to see his people and get some whiskey. But he went to A's and he later went over there and B was at A's house about drunk, and A struck B in the head with a machine hammer and told him (the defendant) if he opened his mouth he would kill him and throw him in the closet. And in a few minutes he took him to the kitchen pantry and about 12:00 or 1:00 o'clock he took his knife and saw and cut B's feet, arms and head off and put them in a piece of tow sack and he, A, then took the body and made the defendant help carry it to the old barn.

"He (the defendant) then went home and stayed at home until the next evening he went to the store, and saw B and he asked him to go with him, and they went to the barn and got something and put in his coat pocket, and he struck a match to light a cigarette and threw the lighted match in the straw and would not let him put it out, and again told him if he ever told on him he would kill him. And on Sunday, November 1, 1925, the defendant gave his brother $125.00 and told him to take care of it for him. He does not know what he did with the arms, feet and head, never saw them any more after that night."

Largely upon this evidence and that given by the co-defendant who submitted to a charge of second degree murder, the prisoner was promptly convicted of first degree murder and sentenced to die, while the co-defendant was sentenced for second degree murder.

In his charge to the jury the trial Judge particularly emphasized the necessity for the presence of premeditation and deliberation on the part of the criminal in a verdict of first degree murder.

Counsel appointed by the court for the prisoner appealed as a pauper to the Supreme Court for a new trial, on the ground that the evidence was not sufficient to convict. A new trial was denied.

Commutation of Sentence:

Later it developed that many people of his community regarded the prisoner as being too low mentally to plan and carry out such a murder. In recommendations for commutation of the prisoner's sentence, the co-defendant was repeatedly referred to as "the brains" of the crime. The Judge, the Solicitor and the members of the jury all recommended that the prisoner's sentence be commuted. Accordingly, his sentence was commuted to life imprisonment on December 9, 1926, and he started serving sentence on that date.

Mental Condition:

A subsequent examination of the prisoner's mental condition was made and the examiner found that there was a definite psychosis which was "probably paranoid dementia praecox". The examiner stated:

"It is impossible to make any diagnosis as to definite form of psychosis on the basis of the examination given. There is no doubt, however, that a definite psychosis does exist, and there is considerable evidence pointing to the presence of well established active hallucinations, both of the visual and auditory types.

"The prisoner states that God first commenced coming to him about 10 years ago but that previous to that time, about 28 years ago, he

was in love with a girl. This girl was very sick and when about to die sent for him and made him promise not to drink, fight, or gamble. These were all things that he had been doing rather excessively. After her death she followed him for two years and, whenever he did any of these things, which he had promised not to do, she would appear before him and he would find that it was impossible after her appearance for him to speak or move until some one spoke to him.

"God now appears to him frequently. He says that He appeared to him night before last (that is, two nights before the date of the examination). At that time He told him just to pray on. 'He said, "I have heard your prayers. I will make an escape." I could see Him standing there bright and like an angel.'

"Asked if God gave him directions to kill somebody, would he do it, he said that he would have to think about that, but when pressed for an answer said that he guessed he would have to.

"There is also some evidence of the presence of delusions of grandeur. Although the prisoner cannot read, yet when he takes the Bible and looks at it God 'gives it to him directly.' He does not realize, even when the question is definitely raised for him, that his knowledge of the Bible has come through what he has heard others read and preach, but feels that he is given it by God because of his earnest desire for it.

"The prisoner is quite frank about his sexual promiscuity and when asked how he can do such things and still be a Christian, he says that the Bible says that man was made for God's glory and woman was made for man's glory and 'that is the only glory I had.' He sees absolutely nothing wrong or incompatible in his claiming to be especially favored of God and his grossly immoral conduct.

"The prisoner claims that he married his wife, who, he says, had been sexually promiscuous, because he had promised to if he got her in trouble. So, when she became pregnant he married her. He thinks that his wife was later untrue to him and got the co-defendant in the trial to come and room in their home. He says that he saw them have intercourse but did nothing about it because he had moved his family to South Carolina and needed to make enough money to pay for that and to give him a chance to get away from his wife. He says that on the morning of February 8, 1826, he found himself in prison; that he had no recollection between six o'clock the previous night and three o'clock that morning, and he believes that his wife and the co-defendant poisoned him."

CASE E

Prisoner: White. b. Wilkes County, N. C., May 9, 1895
Charge: First Degree Murder
Sentence: 20 to 30 Years, Second Degree Murder
Present Location: State Prison, Solitary Confinement
Mental Diagnosis: Chronological Age: 33 Years
Mental Age: 10 Years, 4 Months
Intelligence Quotient: 65.

Physical Characteristics:

The prisoner is five feet, 11 inches in height, and weighs about 160 pounds. His left arm was amputated at the wrist because the hand was hurt in a railroad accident. In this accident his left foot also was crushed and the arch somewhat deformed. He is 33 years old, having been born in Wilkes County, N. C., on May 9, 1895.

He is rather pale, but his general appearance is that of a neat, healthy, rather well-built man. His posture is good. His fine hair is rather dry, his eyes prominent and large with sclera showing underneath the iris when he looks forward. His pupils do not react to light, but react properly to accommodation. His eye movements are good. Both knee jerks are absent even on reinforcement. There is a slight uneasiness of gait. He claims to have some sharp pains in the right side and over the heart at times. There is a slight tendency toward paretic speech. Wassermann tests taken in other institutions are said to be negative. (See concluding remarks.)

Up to the time of his railroad accident, as far as he knows, he "was never sick a day in my life". Since the accident he has been well until recently when he says he has felt the confinement of the prison, being nervous and excited, having pains in his chest and very frequent bleeding from the nose.

Family History:

His paternal grandparents were born in the county of his birth. They never got into any trouble. Neither did their children, the prisoner's

father and his father's three brothers and one sister. There was nothing peculiar or abnormal about any of them, as far as is known.

His maternal grandparents, of Dutch extraction, were residents of North Carolina for years, but it is uncertain whether they were born in this State, although the probability is that they were. Nothing abnormal is known of them. They had four daughters and two sons who apparently were normal. All were farmers except one who was in the nardware business.

All of the prisoner's grandparents are dead, his maternal grandmother having died of cancer.

The prisoner's mother was born in a mountain county of North Carolina, and is still alive and well. His father also was born in this State and was about 45 years old when he died of typhoid fever.

The prisoner is the third child in the family, and apparently had a normal birth. There were three boys and two girls. One brother died of influenza. Another brother is in business in a nearby city, and a third, who is living in West Virginia, is married and supporting his family. Both sisters are married, and one of them has two children. Both sisters are well.

As far as the prisoner knows, none of his first cousins have gotten into trouble, although the first cousins on his father's side were thought to be high-tempered and high-strung.

There is no epilepsy, tuberculosis, or serious alcoholism in the family, nor were there any deformed or feeble-minded children. The members of the family were hard-working people none of whom were distinguished in any way.

Early Home Conditions:

The prisoner's father and mother, who were in fairly good circumstances, lived on a farm where he lived until he was eight years old. He states that his father died when he was very young, and about a year afterwards his mother "took up" with a married man, by whom she had two illegitimate children. He claims that he and the younger children were neglected and allowed to run wild and do what they chose. Still, he has always had love for his mother, and since she has grown older, he has protected her and provided for her when he could. He says that he feels no resentment toward her.

When he was eight years old he went to West Virginia where he stayed part of the time with an uncle and part with a family notorious for feuds. He helped these mountaineers make whiskey, going back and forth from their place to his uncle's home. While he was in West Virginia he went to school irregularly, reaching the sixth grade, but he learned how to gamble and shoot a gun. The mountaineers' stories of adventure and their feuds excited his imagination. Several times he carried ammunition or guns and was present when feuds were active. He enjoyed excitement and adventure and as a child never showed personal fear. He became rather the pet of these mountaineers.

At the age of 13 he went back home, but wanted to leave. However, his mother wished him to stay, and notified the railroad authorities not to take him when he applied for a job as call boy. He attempted to get away from home on a bicycle which he had stolen, but was arrested before he had gone far, and was tried, reprimanded and sent back home.

As a boy he was never much of a reader, although he preferred Western stories. He lived out-of-doors, playing ball and boxing, and was sociable with other children of both sexes. He also liked rambling by himself in the woods, examining reptiles, birds' nests and wild flowers. He was not fond of movies or shows and danced only moderately. He liked

music and played on the violin, banjo and other instruments, but never had any musical training. He was fond of hunting, but not fishing.

Education:

The prisoner started to school when he was about seven years old, and went irregularly until he was about 15, having had altogether only about three years of schooling. He frequently played truant, but never had any trouble with the teachers or with the other school children. He thinks that, all things considered, he did fairly well in his classes. Once he hit a male teacher on the head with a slate for severely punishing his younger brother.

Occupations:

He worked as call boy and fireman on the railroad for six years, stopping because of the accident in which he lost his left hand. His salary for his railroad work was from $125.00 to $150.00 a month. His only other occupation has been rum-running for periods of a few months at a time. He says that he has made as much as $3,600.00 a week for himself by hauling whiskey. Most of this money was made in the winter.

He has had considerable money at times and was a free spender. He got about $7,000.00 from his accident. He showed marked wanderlust, and took about eight trips from coast to coast, usually in an automobile and sometimes carrying members of his family. Sometimes he travelled in style and comfort, stopping at first-class hotels and spending, on an average, $40.00 a day. At other times, as a fugitive from justice, he beat his way as best he could, although he never really hoboed or associated with tramps.

He says that he bought and paid for a home in West Virginia for his mother which cost $9,000.00. He has never carried regular life insurance, and has not saved anything. At his last trial he did not have even money enough to pay his lawyer, as he had just come from a Western trip on which he had spent all he had.

Previous Arrests:

The prisoner's first offense was stealing a bicycle when he was 13 years old. For this he was arrested, reprimanded and sent home. His second offense was breaking into a hardware store and stealing some knives when he was 14 years old. For this he was sentenced to serve six months on the chaingang in an adjoining county, but because he was so young he was sent home.

When he was 19 years old he served his first prison sentence for seduction in the Virginia Penitentiary. He served his second, for two years, in the Tennessee State Prison for stealing an automobile. At the trial at which he was convicted of this he was also charged with shooting two Negro men, but was acquitted. His third incarceration was in the West Virginia State Prison for selling an automobile before he had paid for it; and his last is for murder in North Carolina.

He has made nine escapes from State prisons, all since he lost his left hand. He escaped from the Virginia Penitentiary, was out for about a year, was recaptured and taken back, and escaped again. He went to Tennessee where he was convicted of stealing an automobile and sent to the Tennessee State Prison. In two months he escaped from there, but was captured in North Carolina and taken back. In 12 months he escaped again, and went to West Virginia where he was arrested on an old charge of selling an automobile before he had paid for it. Sentenced to the West Virginia Penitentiary for five years, he escaped after five months. This time he was free for six months, during which

time he came back to North Carolina and hauled whiskey until he was re-arrested and returned to Virginia. He says he was pardoned from the Virginia and West Virginia Penitentiaries to go back to Tennessee where he served all but 30 days of his sentence and escaped again. He then went West for about 15 months. Here he wandered about as a fugitive from justice without being arrested, he says.

Since he has been in the North Carolina State Prison he has escaped three times. Each time he was re-captured.

Marital Record:

His first marriage was to a girl in West Virginia when he was about 19 years old and the girl about 17. He says they were married with the consent of her family. After his marriage, a girl in Virginia had him arrested for seduction and on her charge he was convicted and sent to the Virginia State Prison. He says that he had had no relations with her, and was not the father of her child. While he was in prison his wife got a divorce, having had one child by him.

His second marriage also was in West Virginia, when he was about 22 years old and the girl not quite 17. In this case they married without the consent of her family. One child was born to them. This wife also got a divorce from him while he was in prison.

He has not been married since, but when he was about 25 years old he "took up" with another girl, 18 years old, who lived with him as his mistress until his present imprisonment. She was a sister of his brother's wife and he had known her since she was a small child. By her he had two children. Since he has been in the North Carolina State Prison she has left him and has married another man who the prisoner does not consider good enough for her, although the man appears to have made her an ordinarily good husband. The prisoner has no resentment toward either of them.

He has kept up with his four children, two legitimate and two illegitimate, one boy and three girls, all of whom appear to be normal. His legitimate children are with his brother in a North Carolina town; and his illegitimate ones with the people of his former mistress. The oldest child has just reached school age.

The prisoner began at five or six years of age to have what sex relations he could with little girls in the neighborhood, and when he was 16 years old he had relations with a woman 10 or 15 years older than he. He has always been hypersexed and has always had a wife or a "woman".

Habits, Characteristics and Reputation:

The prisoner smokes very moderately, but uses tobacco in no other form, and has never used narcotics or drugs, although at times he sold narcotics. Since boyhood he has been accustomed to about four drinks of liquor a day, but he says that he has never been really drunk in his life. He had a habit of gambling, especially with cards, often playing for high stakes.

He states that he has always been conscientious about keeping a promise and that he has always had qualms of conscience when he did anything wrong. He feels that if he had a real chance to lead a Christian life he would do so, although he has no religious affiliations or experiences. His mother and father were members of the Baptist denomination. He says that he believes in God and has respect for religious matters.

He is easily touched by other people who have gotten into trouble and says he has always felt a willingness to help them out. He has

no general resentment toward people, circumstances or institutions with which he has come in contact, although he thinks he is confined unnecessarily at present.

Except for his escapes, he has never been reported for an offense in any institution. He gets along well with prisoners and guards, and although he is sensitive and has flashes of temper, they are over in a moment and he is generally sociable and good-natured. He has never had a fight in prison. In none of his escapes has he hit, tied or injured a guard. According to the prisoner, he might have escaped permanently except for the fact that he would always come back home to see either his mother or his children. He had a "sense" that he could not keep away from his people. Once when his brother's house was surrounded, he slipped in between the guards to see his children, spent an hour or two, and then got away again. He says that he left the Virginia Penitentiary because the authorities were very strict and he was afraid of the guards and of whipping and other treatment. He considers that he did not have the nerve to stand the imprisonment and therefore, had to get away. He seems to have derived no satisfaction, pleasure or elation from his various escapes.

The prisoner is rather histrionic but shows some finesse. He walks into an audience with a somewhat self-important air, seems perfectly at ease, talks frankly, does not show any unusual emotional reaction, is neat in his appearance, keeps his hair nicely brushed, his hands clean and his dress neat. He talks rather loudly, using incorrect English, but trying to use impressive words and phrases.

He is proud of his muscular development and appears to like to talk about his exploits, making himself the hero of each of them, and expressing altruistic ideas. He has written a short autobiography in the front of which is his photograph. In fact he has had his picture taken many times, and has been particular as to which one was given to the newspapers. He seems to like newspaper publicity, although he says that the reporters always get the events wrong and that it hurts his pride for things to come out in the papers about him. He feels that the newspapers have given him "an awful unjust deal" and have made him a sinister character, publishing untruths about him and giving street rumors as fact.

He declares that he values human life and would be the last person to take it. He shows an intimate knowledge of the underworld and of the frailties of women, and likes to talk about both. He shows no embarrassment about anything, except that he did not want to talk about his mother's immorality in the presence of several people. His idea is that the whole cause of his trouble is due to her conduct when he was young, and that the history of his case and the pamphlet on his life will lead others to live better lives; that if he can save one out of 100 people, it will be well worth while.

Story of the Crime Charged:

The prisoner came back to North Carolina to see his boy, and while here was arrested on the charge of the murder of a pawn-broker. He says that he had pawned a watch with this man, and when he went to redeem it, the pawn-broker told him to come again and he would look into the matter. When he returned, according to his story, the man refused to give him the watch or the money and said he had no record of it. However, record of this loan was afterward found, and the watch was also found in the store and returned to the prisoner.

An altercation took place in which the prisoner struck the pawn-broker over the head with the barrel of a pistol, which discharged, making a

wound in the pawn-broker's shoulder. Thinking he had made a scalp wound, the prisoner left. The pawn-broker subsequently died. Realizing that the police were after him, the prisoner went to West Virginia where he was arrested on the 11th of November, 1923. He was indicted for first degree murder, tried and convicted of second degree murder and sentenced to the North Carolina State Prison for 30 years. He escaped, but was recaptured within two days; was in prison for about 20 months, escaped again, was out two weeks, and was again recaptured in North Carolina. In about a year he escaped the third time and was free three months. He was recaptured in Indiana and was brought back to the North Carolina Penitentiary where he has been ever since.

Mental Condition:

The prisoner's basal metabolism is normal and his cooperation good. He has a chronological age of 33 years and a mental age of 10 years, four months. His intelligence quotient is 65.

He impresses the examiner as being typical of one sort of criminal, with congenitally defective personality make-up. It seems that his mother's conduct is only a partial excuse rather than, as he thinks it, the entire cause of his delinquency. He has a very definite wanderlust; and a Jesse James type of hereditary criminal propensities. He expresses himself as being entirely fearless—and the examiner believes he is—and in emergencies he is evidently cool, quick and shrewd. His intelligence under tense situations must be far above the average, and his chief mental defect is shown in poor development of judgment, as, for instance, when he escaped from the Tennessee Penitentiary with only 30 more days to serve. He does not appear to be controlled by impelling impulses when he escapes from prison or when he is committing crimes. He has calculated his escapes and planned them well, but again shows poor judgment in not covering his tracks when he is free, and in coming back to his own county in North Carolina.

He seems to have genuine affection for his children and possibly for his mother, but no particular affection for any of the women he has associated with or for his brothers and sisters. He has ideas of reform which are altruistic rather than religious and which, in the opinion of the examiner, are part of his general pose. He seems to be unmoral and unsocial rather than immoral and anti-social, and these characteristics, it is believed, developed partly out of his native endowment and partly out of his environmental influences. He is an extrovert of a pronounced type, and is willing to make any decision, take any chance, or do anything the occasion requires, on a moment's notice. He expresses sorrow for having done wrong immediately afterwards, but this remorse, if it may be called remorse, quickly leaves him and he will do the same thing or something worse upon the next occasion. He seems to have no persecutory ideas and is not paranoid in type. If one had to be bound by a definite psychiatric opinion, he might be put down as a mild hypomaniac.

Another interesting feature of this case is his physical examination. He undoubtedly has definite signs of early locomotor ataxia, and some difficulty in pronouncing test sentences, which would indicate the pos-

sible onset of paresis. Blood Wassermanns have been done in other institutions, and are said to be negative. None has been done here. It is the examiner's opinion that a blood Wassermann would be positive, and that the cell count and other elements, and the colloidal gold curve would show spinal syphilis. This cerebral spinal syphilis, however, would be, in the examiner's opinion, the result rather than the cause of the life the prisoner has led.

(For most of the data included in this case history the N. C. State Board of Charities and Public Welfare is indebted to Dr. Beverley Tucker of Richmond, Virginia.)

CASE F

Prisoner: White. b. North Carolina, March 2, 1907
Charge: First Degree Murder
Sentence: 20 to 30 Years, Second Degree Murder
Present Location: State Prison, Incorrigible Camp
Mental Diagnosis: Chronological Age: 21 Years
Mental Age: 13 Years, 4 Months
Intelligence Quotient: 83

Physical Characteristics:

The prisoner is mediumly well-built, with long neck, rather heavy growth of light hair, deep-set blue eyes in a long, narrow face, narrow head with long fronto-occipital diameter, good color and good complexion. He looks somewhat fatigued. He has cylindrical fingers, but no other peculiarities are to be noted in his shape. His reflexes are all actively normal. His pulse was slightly accelerated and his face flushed. but he has no tremors, exophthalmos or other sign of goiter. His thyroid is normal. His teeth are well-developed, regular and in good condition. His palate and throat appear normal. He eats and sleeps well. He is 21 years old, having been born March 2, 1907.

Family History:

Very little is known about his family. No one seems to know anything about his grandparents. His father died when the prisoner was an infant, and he knows nothing more about him than this. His mother, who died when he was 12 years old, is said to have been a chronic epileptic who had been married three times and had two sets of children placed in an orphanage. She is described as "a good-looking woman and seemed to be of the marriageable sort". After the prisoner's commitment to the orphanage at the age of seven, he never saw his mother alive again. As far as he knows, she was good to him, and was a good woman. He does not know that she is supposed to have had convulsions.

His father and mother had six children of whom the prisoner is the youngest. Two brothers and one sister had been put in an orphanage before he was placed there. His sister and four brothers are all living. They do not come to seem him in prison but have written to him. His sister is married and has three or four children. The prisoner thinks that his eldest brother has not gotten into any trouble. His next brother served four years in the penitentiary for automobile theft. The prisoner knows nothing more about him; neither does he know anything about the brother next in age. The one just older than himself was a traveling salesman when last heard from. The first two brothers are married. So far as the prisoner knows, none of them have any diseases.

Early Home Conditions:

The prisoner lived with his widowed mother, sister and four brothers until he was seven years old when he was committed to an orphanage. He says that his mother made a home for them up until that time, and took care of her children. He thinks she cared for him properly.

He ran away from the orphanage several times, and was returned, leaving permanently when he was 15 years old, when he ran away and the superintendent would not take him back. He thinks now that the orphanage authorities treated him well, although he did not think so at the time.

At the orphanage he was on the baseball team and played most of the usual games. He says that he was sociable, had no special enemies, and was treated all right by the other children. However, he had a few fights. He went to church and Sunday school because he had to, but was never really interested in religion.

Education:

He attended the orphanage school regularly through the seventh grade. He had considerable difficulty with arithmetic and "hated it". He thinks he did pretty well at school.

Occupations:

After he left the orphanage, he spent most of his time hoboing from place to place. Three months was the longest time he worked anywhere, when he was employed in a hardware store in Philadelphia. He does not know any trade, and has never saved any money.

During a period of escape from prison he worked in two dairies, for a few weeks in each.

Previous Arrests:

He had never been arrested before the crime for which he was sentenced, although when he ran away from the orphanage with another boy he was picked up and carried to a county detention home for a week or two. Then he was taken to the county welfare department and made an appointment to return the next morning, but ran away.

Marital Record:

The prisoner is unmarried. He says he had no illicit sexual relations until after he left the orphanage. The first time he had them was in a house of prostitution in Pensacola, Florida, and later when he hoboed he had them from time to time.

Habits, Characteristics and Reputation:

The prisoner smokes moderately since he has been in prison. He never drank to excess, and not at all until his escape from the State

Prison Farm. He has never used cocaine or morphine, and he does not gamble. Occasionally he has frightening dreams, but most of his dreams make no impression.

Since he left the orphanage he has attended neither church nor Sunday school. He believes in God and sometimes "studies about" whether he will be forgiven. He thinks life has treated him fairly, but says he does not know whether he has treated life fairly.

When sitting, the prisoner has a habit of holding his head toward the left shoulder. During the examination he was a little restless, with tendency to slide forward in his chair. He answered questions at times with a degree of reticence, and at others with frankness. He appears to be somewhat reserved, rather sensitive and ill at ease, and seemed to be feigning indifference. He would flush at times, rub his eyes, run his hands through his hair, and squirm in his chair. He does not seem to be particularly ashamed of his habits of life, nor resentful of his fate. He says that he does not think that, if given the opportunity, he would try to escape again as he did from the State Prison Farm, although "one never could tell in this kind of life". He seems to have no affection for anyone except his sister. She has written to him and sent him things. He realizes that she would have done more for him except for the fact that she cannot afford to, as she has three children.

The prisoner expresses no delusions or hallucinations. He impresses one as being a repressed, emotional type with a distinct hobo tendency. His psychopathic inferiority is shown chiefly by his non-conformity to the life of the orphanage and the prison. His hobo tendencies and sexual and other dreams give the impression that he is nervously unstable. He says that at times he becomes so nervous that he "has to stop everything and sit down".

Story of the Crime Charged:

In January, 1923, he was placed by the welfare committee in the home of Mr. A. He worked on Mr. A's farm at one thing and another for five weeks. He then discovered that Mrs. A, a middle-aged woman, had some money in a safe in the house, and he wanted to get it. He states, however, that she had been good to him. One day he went in the house from work at about nine o'clock in the morning with the intention of getting this money. The safe was in the sitting-room and he found Mrs. A in this room sitting by the fireplace. He told her to open the safe, but she refused to do so. Then he drew a pistol, which he had taken out of one of the drawers a few days before, and told her that she had better open the safe, or he would shoot. Mrs. A told him she would not do it. Whereupon, he argued with her, shot her once, and threw the pistol down. As the safe had not been opened, he did not get the money, but ran and unhitched the horse and rode away. He left the horse in a wood, and went on from there to Greensboro. He did not see anyone he knew, but boarded a freight train and went to Charlotte. Here he stayed for a day or two, and then hoboed to various places in the country, among them Philadelphia where he worked in a hardware store.

After about nine months he came back to North Carolina and went to his sister's home where he was arrested. He was convicted of second degree murder and sentenced to from 20 to 30 years imprisonment. He was first charged with first degree murder, and it was only through testimony as to his mental condition that he was saved from a sentence of death.

He escaped from the North Carolina State Prison Farm while working in a sand-pit. He saw an opportunity to escape and got out of the

pit and ran. He was free a little over six months, and then gave himself up to the authorities in New York, and was brought back. He says he thought he would come back and work his time out, rather than be a fugitive dodging the officers.

Mental Condition:

The prisoner will be 21 years old on the second day of March. His mental age is 13 years and four months, and his intelligence quotient 83.

This prisoner seems to have an hereditary defect, shown by his mother's epilepsy, his father's inability to support the family properly; and the fact that his brother was a thief. He was put in an orphanage where he could not conform and from which he frequently ran away. As soon as he got outside he led the life of a hobo. He has never been subject to many bad habits, but showed some schizoid tendencies and lack of emotion when telling about the murder he committed. He did, however, show some emotion about minor things. He appears to have forgotten a good deal that he learned at school. The examiner's impression is that he has a defective hereditary, and is a case of constitutional psychopathic inferiority with criminalistic tendencies, who would probably have developed into much the same type of person and have had somewhat the same career, even if he had not been reared in an orphanage.

(For most of the data included in this case history the N. C. State Board of Charities and Public Welfare is indebted to Dr. Beverley Tucker of Richmond, Virginia.)

CASE G

Prisoner: Negro. b. Lancaster, S. C., 1884
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Died of Pulmonary Tuberculosis at the N. C. State Prison, March 7, 1927
Mental Diagnosis: Feebleminded
Chronological Age: 43 Years (1927)
Mental Age: 9 Years, 2 Months
Intelligence Quotient: 57

Physical Characteristics:

The prisoner was of medium build, rather thick-set, five feet, seven inches in height; weighing 145 pounds. He had rough, dark brown skin, brown eyes, and pronounced Negroid features, particularly nose and lips. His head was set down between the shoulders and he was inclined to walk in a stooped position. From appearance he seemed to be of ordinary intelligence. He was 43 years old, having been born in Lancaster, S. C., in 1884.

Physical examination upon his admission to the State Prison, October 14, 1925, showed him to be in good health, except for the presence of bad teeth and an enlarged and accentuated heart.

Family History:

His grandparents and parents were natives of Lancaster County, South Carolina. His mother lived to be 95 years of age, while his father died at the age of 100. His father's parents died "of old age." All of the prisoner's grand-parents were slaves. Two of the prisoner's sisters died from dropsy and one brother of typhoid fever. There is one recorded case of insanity in the family, that of a maternal aunt.

Early Home Conditions:

Throughout the prisoner's childhood, his family occupied a one-story frame dwelling which was in very bad condition. There were 11 occu-

pants of this four-room shack, and it was here that his brother and his two sisters died. The lack of sanitary home conditions, due to ignorance and poverty, helped to prevent the development of normal family life with the simple comforts that good rural homes usually possess.

His family had only the minimum necessities for existence. There seems to be no way to approximate their total resources at any time. The income was always variable and never adequate. The father was a tenant farmer and rented the house in which the prisoner spent his early life, paying for rent one 500-pound bale of cotton a year. As the boys grew older, however, two 500-pound bales were required annually. Subsequently there was a proportionate increase in the amount of cotton paid for rent, the amount being determined by the age and earning capacity of the several children. The father early encountered difficulties of economic pressure, and, lacking education and initiative, was unable to engineer himself into independent farm ownership.

Education:

Except for his being taught to read a little, the prisoner's education was neglected. This, perhaps, was due in part to the general apathy of the community and the poor educational advantages and inadequate school facilities provided for Negroes there.

Occupation:

Practically all his life the prisoner lived in or near Lancaster County, South Carolina, which adjoins Union County, North Carolina. Four months before he was charged with murder, he moved across the line into Union County, the home of his paramour and accomplice. He began to work in 1896 for a neighboring farmer, receiving $6.00 a month and food. In 1897 he became a share cropper, and until 1899, under this system, he received two bales of cotton a year. For the next five years (1899-1904) he received two-fifths of the entire crop raised. During the succeeding years, he continued this type of farming, his share annually increasing, until in 1925 it amounted to $400.00. All of his share crop farming, like that of his father, was done for white landlords, but both hoped ultimately to assume personal ownership of the land they worked.

Marital Record:

He had been married twice, and was living with his second wife at the time of his arrest. Before and after marriage he maintained relations with various women. Three children were born to him, one of this number illegitimate. At his trial it developed that on at least one occasion the woman involved with him in the murder stayed all night at his home, occupying the same bed with him, his wife, and her child, which was not regarded as questionable either by the prisoner or his wife.

Habits, Characteristics and Reputation:

He personified the "Uncle Tom" type of Negro with other characteristics typical of a present-day middle-aged Negro who had been denied opportunity for development. In many ways, he was a productive and useful citizen of his community, and was a type of leader in its religious and civic activities. He was an active member of the African Methodist Episcopal Zion Church, and served for a number of years as a "class leader" chosen by his fellow-members. His prison record was good and he consistently maintained a grade of B. He insisted upon his claim to good character, and his extra-marital relations with women were the only factor which seriously impaired his position. His irregular sex life seems to have been unknown in the community in which he lived, or, if it were known, it did not have any effect upon his reputation, for

at his trial, several white and Negro citizens of standing attested his good character, and many leading white citizens, including the Sheriff and a member of the Board of County Commissioners, testified to the same in asking the Governor to commute his sentence.

Story of the Crime Charged:

For about two years prior to the murder of the husband of his paramour, the prisoner and the woman had known each other, and although both were married, they began "going together". The crisis between the prisoner and his victim came with an argument over their relative ability to conjure and "work roots". The woman, the prisoner and the husband were returning home from a visit to town. On a lonely road, the woman fell behind, thus permitting the prisoner and the husband to talk freely with each other. According to the prisoner's statement, they both were in good humor, and were talking about their mutual acquaintances, which led up to the following dialogue:

Husband: "Some niggers call themselves so dam' smart!"

Prisoner: "You needn't think that 'cause you can work roots nobody can work roots but you."

Husband: "I got you now!"

With these words, according to the prisoner, the husband struck him across the head with a stick which he had been carrying. This frightened the prisoner and as the man tried to strike again, he grabbed the stick, which broke, and both men reached into their pockets for their knives. The prisoner succeeded in extracting his knife first, and began cutting the other man's throat. According to the testimony of a physician who examined the body, death was almost instantaneous.

The prisoner and the woman together lifted the body, the woman holding the feet and he the shoulders and arms, and carried it to the branch. The prisoner threw away his knife, returned home, told his wife of the crime, and made a fire in which he burned his coat and trousers.

The body was found in the branch Thursday of the following week, and the Sheriff was notified about five o'clock in the afternoon and proceeded to the spot to make an investigation. The Coroner and a doctor came, at the Sheriff's request, and following an examination of the body and an investigation of the scene of the crime which they identified by clots of blood on the honey-suckle bushes along the road, the Sheriff directed the prisoner to assist in the burial of the body. The Sheriff arrested two Negroes who were last seen with the victim at a baseball game on the afternoon of the murder. However, after being questioned, they were released and suspicion fell on the prisoner who was arrested. He implicated the woman who also was promptly arrested. He denied active participation in the murder, but admitted that he was under the "evil influences" of the woman whom he assisted in bearing the body of their victim to the branch.

At the trial the prisoner admitted that one month prior to the murder he had tried to buy some strychnine, saying that the woman's husband gave him 25 cents and requested him to purchase the poison in order that he (the husband) might commit suicide. When the husband had said: "I am just bothered up so I am a mind to kill myself", the prisoner had replied: "You ought to let another man do that". Later, however, in the testimony the prisoner admitted that the husband wished to use the poison in order to kill another man who had been intimate with his wife, but denied that he intended to assist in the killing, although

he had accepted money for the purchase of the strychnine, thus becoming a potential accomplice.

The woman was sentenced to not less than eight years nor more than ten years in the State Prison, and the prisoner was found guilty of first degree murder and sentenced to death in the electric chair.

Petitions for Clemency:

After the prisoner had been sentenced to die the Governor received several petitions requesting executive clemency. They were of two kinds. The first based the appeal for executive clemency upon the association of the woman with the crime and her light sentence (eight to ten years). Among this type are the following:

"In view of the light sentence meted out to the woman, the prisoner is entitled to a commutation of sentence to life imprisonment."

Clerk of Court.

"The woman seems to be generally understood to have been the cause of the crime, it being contended by the State that she was the motive for the crime. She got off with ten years in the penitentiary, and testified against the defendant. The woman does not always pay. The evidence of premeditation was conflicting".

Attorney at Law.

"Local white opinion was that the woman was as deeply implicated as was the prisoner, and that under the circumstances, he should not be electrocuted."

State's Attorney.

"I want to ask you to commute his sentence as the evidence of premeditation was very doubtful. Furthermore, the woman was undoubtedly the cause of the trouble between the two men".

Sheriff.

"My opinion at the time of the trial and now is that the prisoner is of a very low type mentally, and that he was simply led on step by step by this woman, who wanted to get her husband out of the way. I trust . . . . you will see your way clear to commute this sentence".

Attorney at Law.

The second type of petition was that of persons who testified to the prisoner's past character and reputation.

"Prisoner does not seem to be a bad Negro at heart".

Attorney at Law.

"He has borne a good character always among the people with whom he lived, and has never been in trouble of any kind before this, he has never exhibited any of the qualities of a vicious character."

Sheriff.

"I have known the prisoner for a good many years, he lived on my place for three years, and he was a straight-forward, hard-working darky. He was never in anything of a serious nature until this charge arose. I am convinced that he was led into it by the woman in the case, and I respectfully urge your excellency . . . . considering the prisoner's past and good character . . . . to commute his sentence to life imprisonment".

County Commissioner.

From the jury that heard the case, came the following letter:

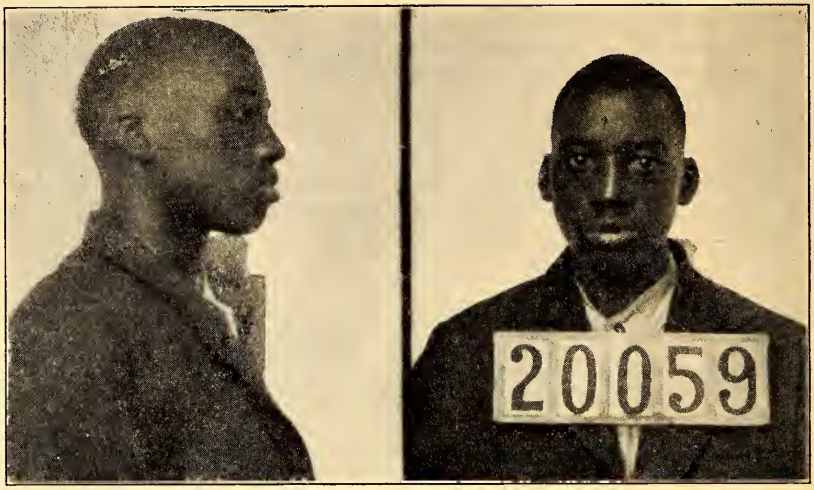
"On account of the fact that the prisoner, before his indictment, was a Negro of good standing, and on account of the fact that the co-defendant, who submitted to murder in the second degree has received only a sentence of ten years in the penitentiary . . . . under the circumstances . . . . the prisoner should not be required to pay the extreme penalty . . . . his sentence should be commuted to life imprisonment".

The Governor commuted his sentence to life imprisonment.

Mental Condition:

The prisoner was feeble-minded. His chronological age was 43 years; his mental age, nine years and two months; and his intelligence quotient 57.

CASE H



Prisoner: Negro. b. Pickens, S. C., July 10, 1909
Charge: Rape
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feeble-minded
Chronological Age: 18 Years (1927)
Mental Age: 8 Years, 6 Months
Intelligence Quotient: 53.

Physical Characteristics:

At the time the crime charged was committed, the prisoner was 17 years old, weighed between 100 and 125 pounds, and was five feet, seven inches in height. His complexion is dark brown; his eyes brown. He was born in Pickens, S. C., on July 10, 1909.

Physical examination showed him to be in very good health, having been ill only twice in his life; once with fever and once with influenza.

Family History:

His mother died when he was quite young and his father is still living at Pickens. There were nine members of his family at his home. His sister, with whom he lived in Asheville, N. C., before his employment at the sanitorium at which he was working when the crime charged was committed, is now living in Charlotte. She is 23 years old, and gives the impression of being a much lower mental type than he. She has been married twice. Her first husband is dead, and she is now living with a man to whom she is not married. She bears a scar on her upper left arm which appears to be a knife wound. She claims this wound was inflicted during play with her second husband.

Early Home Conditions:

The prisoner lived in Pickens, S. C., until one month before his arrest. His home there was one-story frame dwelling with four rooms for which the family paid $3.00 a month rent. Nine members of his family lived here.

Education:

He completed the fifth grade at the age of 17 years. He was good in spelling and geography, but backward in arithmetic. He liked to go to school.

Occupations:

He was employed by several persons in Pickens from time to time, and began by waiting at table at an inn where his wages, including tips, were about $6.50 a week. He worked here for five months, and later was employed as house boy, street laborer, cotton picker, and for a short time he helped his father repair shoes. He had also acted as nurse and companion for several white children in his community. Sometimes he would leave his employer when a particular job was completed, and at other times when he felt that his wages were not high enough. He held his first job as waiter longer than any subsequent one, and he seems to have enjoyed changing employment. At the time of his arrest he was employed at a sanatorium near Asheville. He had been self-supporting for a number of years.

Marital Record:

He is unmarried. At the age of 15 years he began "going with" a Negro girl of the same age. This association continued for about two years. During this time they had sexual relations.

Habits, Characteristics and Reputation:

He bore a good reputation in his community. Reputable neighbors, among them prominent white citizens, cheerfully testified to his good character. He was considered trustworthy, as shown by the fact that he had been employed as nurse and companion for white children. He had a steady employment record.

Story of the Crime Charged:

He left South Carolina to visit his sister who was then living in a public boarding house in Asheville. Here soon after his arrival he secured employment at a sanatorium for the care of tubercular patients located near the city where he was working at the time of his arrest. The prosecutrix was a married woman about 35 years old, with no children, whose husband at the time the alleged offense was committed was engaged in carpenter work on a house about a mile from the scene of the crime. For some time she had been selling flowers at the nearby cottages, hospitals and sanatoria.

On the morning the offense was committed she had made the rounds at the sanatorium where the prisoner was employed. She said that she had finished her sales there and was on her way to her home when she claims she was assaulted. She did not fix the exact time of the alleged assault, but she claims to have left the sanatorium about eight o'clock. She stated that at a bend in the road about a mile and a quarter from the hospital a Negro approached her and passed by, then turned back and immediately assaulted her.

The prosecutrix stated further that soon after she had been assaulted she went to the home of Mr. A, about a quarter of a mile away; that she knew Mr. A and the members of his family, having formerly been a caretaker of his premises. About 15 minutes after she arrived at A's house she gave a detailed statement of how the crime was committed to Mr. A in the presence of Mr. B and a deputy sheriff. Asked to describe her assailant, she said that "the Negro was about 35 years old, was a rather large yellow Negro with a blue shirt, yellow trousers and a felt hat". Asked if she had ever seen her assailant before she said,

"No, he is a stranger". Messrs. A and B said that she was perfectly rational when she made these statements, and the Deputy Sheriff who was present made a memorandum of it. For some reason, at the trial the State did not put either A, B, or the Deputy Sheriff on the witness stand, although the two former were subpoenaed as witnesses for the State.

In the afternoon of the same day the prosecutrix described her assailant to the Sheriff of Buncombe County as follows: "He was a colored man who had on a rather light pair of pants; they were not overall goods, nor fine goods, just a pair of work pants". Late in the afternoon of the day of the assault, the prisoner who for several weeks had been employed at the sanatorium where that morning the woman had sold flowers was arrested and brought before the prosecutrix, whereupon she stated that he was her assailant. At that time the prisoner was a young Negro boy about 17 years old, five feet, seven inches in height, who weighed between 100 and 125 pounds and was of very dark complexion. After many months of close confinement in prison he may be described as of a dark chocolate color.

There was no other material evidence offered by the State in corroboration of the prosecutrix's identification of the prisoner as the Negro who assaulted her.

Incidents of the Trial:

Immediately after the prisoner was charged with the crime he was taken from Asheville and confined in the Charlotte jail, and was brought back to Buncombe County for trial on the morning the court convened. As he was unable to employ counsel, the court assigned a lawyer to appear for him, but this was not done until the late afternoon of the day prior to the beginning of the trial and after arraignment of the prisoner and the drawing of the venire. His appointed counsel was assisted in the trial by a lawyer from the home of the prisoner in South Carolina, who volunteered to help on account of his acquaintance with the prisoner from childhood.

At the beginning of the trial counsel for the prisoner made a motion for continuance in order to enable them to make investigation and to examine the material witnesses. This motion, in the discretion of the court, was declined. At the trial the prisoner denied the crime and stated that he was at the sanatorium at the time the offense was committed and had remained there until three o'clock that day, offering the testimony of the house superintendent of the sanatorium, a trained nurse and others, tending to corroborate this statement. The evidence also disclosed the fact that he left the sanatorium by permission of the superintendent about three o'clock on the day the offense was committed; that prior to that time he had been constantly engaged in the performance of his duties and that he returned to the sanatorium about five o'clock in the afternoon and was then arrested.

The jury was composed, in general, of men of high character and more than ordinary intelligence. After considerable deliberation they returned a verdict of guilty.

Governor's Statement in Commutation:

The following statement made by Governor McLean commuting the prisoner's sentence from death to life imprisonment is quoted in full because of its importance in showing a phase of the administration of justice in capital cases.

"It is clear that the counsel for the prisoner had insufficient time to make a thorough examination into the evidence and to learn the

names and whereabouts of all the witnesses whose testimony might benefit the prisoner. Neither did the court nor the counsel for the prisoner have any knowledge that there were persons other than those who had been subpoenaed who could give evidence throwing light upon the case.

"A very careful examination of all the evidence produced upon the trial, including the depositions, convinces me that the jury had evidence upon which they could predicate a verdict of guilty. In this connection, however, I may say that the apparent unnatural conduct of the prosecutrix at and about the time the offense was committed, her contradictory statements in her description of the prisoner at various times and other facts and circumstances might very well have raised a reasonable doubt in the minds of the jury as to the guilt of the prisoner.

"New evidence not presented at the trial and which could not, under the circumstances, have been presented at the trial, has been presented to me as ground for the exercise of executive clemency. This evidence in substance is as follows:

"Mr. A, whose testimony has heretofore been referred to and who was summoned by the State, was not examined by the State, but was examined by counsel for the prisoner, in an affidavit filed with me says: that he did not give all the facts in detail within his knowledge when examined at the trial because he was asked very few questions and he did not at that time know the importance of the evidence and had no opportunity to discuss the matter in detail with prisoner's counsel at the time he was examined. In his affidavit filed with me he gives in detail all the facts and circumstances, particularly the statements made to him by the prosecutrix immediately after the offense was committed and the further statement that Mr. B, a gentleman of high character, was present and heard the prosecutrix's statement. I do not deem it necessary to quote all of Mr. A's statement here, but the affidavit is on file and it is sufficient to say that it discloses a state of facts which in many particulars strongly contradicts the statements of the prosecutrix, the effect of which is much stronger than the testimony which she gave upon the trial.

"The affidavit of Mr. B, who was with A at the time the prosecutrix made the statement which is before me in every respect, corroborates A's statement and many material facts contradict the statement of the prosecutrix. Mr. B was not subpoenaed as a witness at the trial and his evidence therefore is entirely new evidence.

"Diligent enquiry as to the character and reliability of Messrs. A and B discloses the fact that they are not only men of the highest character but of unusual intelligence. It may be said here that both of them, after being cognizant of all the facts unqualifiedly recommended commutation of the prisoner's sentence, although they assert that they are in favor of capital punishment in cases of this kind where evidence as to the guilt of the prisoner is conclusive.

"The memorandum which the Deputy Sheriff took down at the time of the conversation with the prosecutrix in the presence of A and B in all material respects corroborates A and B. It is worthy of note here that the State did not use the testimony of the Deputy Sheriff or the memorandum at the trial.

"Doctors C and D, who made the examination of the prosecutrix soon after her arrival at the hospital where she was treated, and to whom the prosecutrix described her assailant, strongly contradict the testimony which she gave upon the stand. Both of these physicians were well acquainted with the prosecutrix. Neither of these gentlemen were either subpoenaed or examined at the trial and the facts within their knowledge were not known to the counsel for the prisoner. Both of them in

addition to their statement of the facts in their knowledge have strongly urged the commutation of the sentence of the prisoner for the reason that they believe that there is too much doubt about his guilt to allow the death penalty to be inflicted. Doctors C and D are of the highest standing both professionally and personally.

"There have been presented to me also affidavits of E, a patient at the sanatorium at the time the offense was committed, who saw both the prisoner and the prosecutrix at the sanatorium on the morning the crime was committed; Mrs. F, a patient at the same institution who saw the prosecutrix at the sanatorium this morning; the affidavit of Miss G, another patient at the sanatorium who saw the prosecutrix that morning; the affidavit of Miss H, a nurse at the sanatorium who saw the prosecutrix at the sanatorium that morning; the affidavit of J, who was a patient at the sanatorium and was well acquainted with the prosecutrix, who saw the prosecutrix at the sanatorium that morning; the affidavit of Miss K, who was a patient at the sanatorium and who saw the prosecutrix that morning and the affidavit of Miss L, a patient at the sanatorium and saw the prosecutrix there that morning. None of these parties were examined at the trial, nor were they subpoenaed for the reason that no one seems to have known at that time that they had any information bearing upon the case. Their affidavits tend strongly to contradict the prosecutrix as to the time she says she left the sanatorium and to corroborate the alibi of the defendant.

"Six of the jurors who tried the case requested me to commute the sentence of the prisoner to life imprisonment as follows:

" 'The members of the jury who convicted the prisoner are writing you that evidence which was not presented to the jury and which was not known was available has been presented to us and it is such as to raise a reasonable doubt in our minds as to his guilt. We believe a commutation of his sentence pending future developments looking to the establishment of his innocence would be satisfactory to a majority of our people and that such action on your part would better serve the ends of justice'.

"The attorney for the prisoner advises that he has been unable to find the other six jurors and they have made no representations to me.

"About 4,000 of the best citizens, both men and women, in Asheville and Buncombe County, have either written me or signed petitions asking me for the death penalty not to be inflicted in this case because of the doubt which they feel as to the guilt of the prisoner.

"While I do not feel that mere public sentiment as expressed in the letters and petitions should control me in this or any other case; yet, on account of the spontaneous and overwhelming character of the appeals for clemency which have come to me from so large a number of the best citizenry of Buncombe County, I have felt that this taken with other material matters in the case have imposed upon me the duty of a thorough investigation.

"Mr. M, an attorney who assisted the Solicitor in the prosecution has made a strong appeal to me for clemency which I quote as follows:

" 'The evidence in this case, in my opinion, was far from convincing. We, as the prosecution, had very little more than the direct testimony of the attacked woman, while the defense had disinterested white people accounting for the little Negro's acts before the crime was committed, at the time of it, and afterwards. If their testimony is to be believed, it was impossible for the little Negro to have committed the act of which he was accused, by reason of the fact that he did not have time to do all that he was accused of. I was very doubtful about the case when it went to the jury, but my work was done, and done to the best of my ability'.

"The prisoner had only lived in Asheville about three weeks where he had been employed at the sanatorium and where he had made a good impression upon everyone with whom he came in contact. The most prominent officials and citizens of his home town, Pickens, S. C., have given him a most excellent reputation, saying that he has been employed as a child nurse and companion of children of prominent white families from his childhood and he produced evidence from all the families by whom he had been employed to the effect that he had never been guilty of any misconduct of any kind and that his attitude towards women and children had been most respectful and deferential. I have also been impressed in going over the case with the deep-seated interest which the white citizens of Asheville and Buncombe County have taken in this case. The appeals to me have not been made by members of the prisoner's own race but by disinterested intelligent white men and women of the highest character and standing. It is inconceivable that all of these citizens should speak with one voice in appealing to me for clemency if it were not for the fact that they earnestly believe the infliction of the death penalty would be a grave injustice under the circumstances of the case.

"This case has given me more concern than any official duty I have had to perform since I became Governor. I believe firmly in the necessity for capital punishment and particularly in cases of rape, but I do not believe in the infliction of capital punishment even in the cases of rape unless it appears that the prisoner upon all evidence disclosed up to the very moment of the execution of the judgment is guilty beyond a reasonable doubt. That is not only the correct principle of law but it is the only principle that satisfies the inner conscience. My task has been the more difficult by the reason of the facts and circumstances which led up to the trial and conviction of the prisoner. I can think of no act more serious than the commission of the crime of rape except the taking of the life of an innocent person either with or without due process of law.

"The Commissioner of Pardons and myself have felt so deeply our responsibility in this case that we determined in the very beginning that no stone should be left unturned in an effort to get at the real truth of the matter not only from the evidence submitted at the trial but upon any material evidence that might be discovered since the trial. For this reason a most thorough investigation of the case has continued for a period of several months. The Commissioner of Pardons at my request went to Asheville and made a thorough examination of the facts and circumstances submitted at the trial as well as the new evidence which has been recently reduced to writing and submitted in the form of affidavits. Every fact and circumstance that would tend to throw light upon the case has been thoroughly investigated. I have conferred personally and at length with the Solicitor who tried the case and with the counsel for the prisoner. At my request the Commissioner of Pardons has conferred fully with the trial Judge. The Judge and Solicitor have made no definite recommendation, putting their failure to do so upon the ground that they tried the case upon the evidence produced at the trial and that they necessarily could not consider the new evidence which has been produced since that time.

"Referring to this phase of the case the trial Judge says in substance: that he feels that the matter under the present conditions is one for the Governor to pass upon in the light of the new evidence submitted and that the action of the Governor whatever it may be, will meet with his entire approval.

"I have received no protests except one from a newspaper man who heard only the evidence presented at the trial.

"If no evidence was submitted to me except that which was presented on the trial I do not feel that I would consider for a moment extending executive clemency because I believe that the jury might have rendered a verdict of either guilty or not guilty as they may have viewed the evidence. The case presented to me is a very different case from that presented to the jury. The new evidence which I have referred to, as six of the jurors say, might have caused them to have returned a different verdict if they had had the benefit of it. On the other hand it may be said that with all the evidence presented a jury might have been justified in returning a verdict of guilty, particularly if they had believed the testimony of the prosecutrix given on the trial and disregarded all the testimony which tended to contradict her and to corroborate the defendant in establishing his alibi.

"In the consideration of applications for executive clemency in criminal cases the Governor occupies a very peculiar position. Under the law and the practice of the courts in civil actions a new trial can be granted by the Supreme Court upon the ground of material evidence discovered after the trial in the lower court. In criminal cases the same rule does not apply. The Supreme Court cannot grant a new trial in a criminal case on newly discovered evidence no matter how strong. There is no recourse, therefore, to the prisoner if he desires to present newly discovered evidence in his own defense but to appeal to the Governor. It is not for me to say, however, that if I had the power to do so I would dispose of the application before me in this case by ordering a new trial upon all of the evidence including that presented at the trial and that which has been discovered since. Not being able to do that I must assume final responsibility.

"After the most diligent and painstaking consideration of all the facts and circumstances presented to me I have concluded that upon all the evidence presented, particularly newly discovered evidence, that the jury might have rendered a verdict of not guilty if the newly discovered evidence had been submitted to them; for that reason I do not believe that the cause of justice would be promoted or that crimes such as the one in this case will be prevented by the infliction of the death penalty. Therefore, I have determined to commute the sentence of the prisoner from death to life imprisonment. It has been urged upon me by some that there should be a full pardon and that any other course than that would be inconsistent. I cannot take that view of the case. If a mistake should be made in this case and the death penalty inflicted upon an innocent man the opportunity to correct the error in the future will have passed. On the other hand, if the death penalty is not inflicted and the prisoner is confined in the State's Prison the real truth may be disclosed in the future and exact justice done. It must be remembered in this connection that the absolute discharge of a man who might be guilty of the crime charged would also be serious. In the final analysis I have not determined that the prisoner is not guilty of anything, but have determined that there is too much doubt in the case as now presented to me to permit the death penalty to be inflicted.

"The sentence of death pronounced upon the prisoner is therefore commuted to imprisonment in the State's Prison for the term of his natural life.

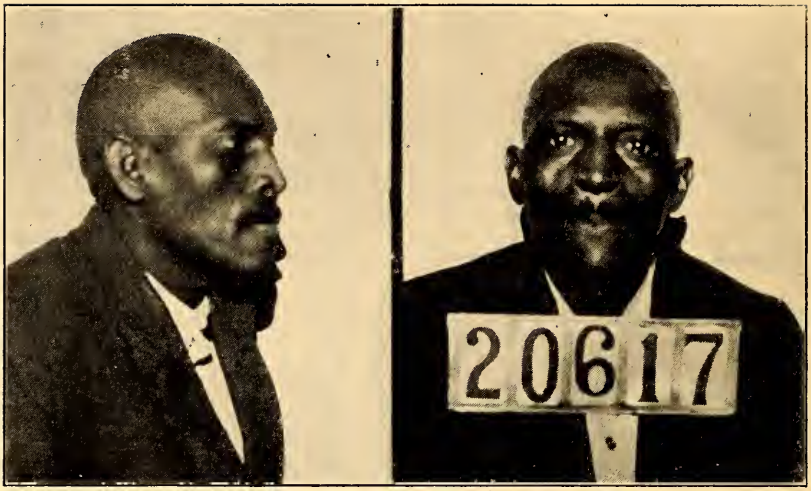
"This, the eighth day of July, 1926."

The facts in this case might be taken to suggest the need of a revision of criminal procedure in regard to the admission of new evidence in capital cases.

Mental Condition:

The prisoner was given a mental examination on January 29, 1926, at the State Prison. He was found to be a very coöperative boy who seemed not only interested in the questions asked him, but who made an effort to give satisfactory responses in all cases. The results of the examination are extremely clear-cut, presenting a picture of definite feeble-mindedness. Of the six tests at the ten-year level only one was passed, and he failed all of the twelve year tests. With a chronological age of 18 years (1927) and a mental age of eight years, six months, his intelligence quotient is 53.

CASE I



Prisoner: Negro. b. Charlotte, N. C., March 23, 1884
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded
Chronological Age: 43 Years (1927)
Mental Age: 10 Years, 4 Months
Intelligence Quotient: 65.

Physical Characteristics:

The prisoner has dark brown skin; is five feet, eight inches in height; and weighs 151 pounds. He has prominent features, piercing brown eyes, large oval head with chin rigidly set, and a heavy moustache. He is 43 years old, having been born in Charlotte, N. C., March 23, 1884.

Family History:

His parents and an aunt had moved to Charlotte, N. C., from South Carolina shortly before his birth. His mother died when he was very young.

He comes from an old slave stock classed in a more favored category than the rank and file of slaves before the Emancipation. His maternal grandparents moved from Virginia to South Carolina. His paternal grandparents were born and lived in Chester, S. C. His nearest living relative of the older generation is the wife of an uncle with whom he spent many of his early years.

This uncle was supervisor of field hands among the 50 slaves on a rice plantation in South Carolina. He married a woman who was the "mammy" on a neighboring place and who, as such, was a privileged character among the 25 slaves there. Passes were granted on Sunday nights to permit certain slaves to attend church services. In this way the man and woman became acquainted and began a normal courtship. The rice plantation on which this uncle lived began to flourish with the arrival of a man from Africa who showed the slaves how to sow rice, and here the uncle continued to work until the Surrender in 1865.

The following year he married the woman whom he had been courting. She had remained with her former mistress from April until Christmas 1865, service for which she received $30.00, in addition to her maintenance.

The uncle became a share cropper on the estate of his former master. He received about $100.00 a year as his share. He and his wife had 14 children, all of whom were born after their marriage. Five died in infancy, and one served with credit in the World War. They were given a very limited education, most of them stopping school in order to work, or from indifference.

Early Home Conditions:

As his mother died in his early childhood, the prisoner was brought up by his father and the aunt who had come with the family to North Carolina.

Education:

His education stopped at the third grade, and he never tried to go higher.

Occupations:

He began work as an errand boy in Charlotte. His second employer also lived in Charlotte, but the prisoner followed this man to Washington, D. C., where for about four years he was a saloon-keeper for him. Later, in order to get into a different environment, the prisoner went to New York and worked as janitor for four or five years. When his father fell ill in Charlotte, he returned home. Although he was always able to go back to his former employer, he said he was "tired foolin' 'round whiskey" and began to work as an ordinary laborer in the Virginia fertilizer plant in Charlotte.

Marital Record:

He is married and has four children. At the time of his arrest, he was living with his wife and family in a small three room house on an unimproved street in a poor, congested section. His wife says that he was a good provider and a faithful husband. His wife takes in washing and does job work cleaning offices. Before his conviction for murder she was a member of a Negro Baptist church in Charlotte. She is the only one of eight children in her family who has not migrated to the North.

His oldest daughter is married and intends soon to join her husband who works in a laundry in Jersey City. One of his sons works every week day and Sunday in a neighborhood shoe-shine parlor.

Previous Arrests:

Four times between the ages of 11 and 25 years the prisoner was arraigned in Mecklenburg County for fighting. The first offense was disposed of by a whipping from his father and the last by the payment of a fine and costs of court amounting to $273.00. At the age of 30 years, he was convicted of highway robbery and sentenced to six years on the roads. He admits the justice of his former convictions.

After this, and in the face of a bad reputation in his home community, the prisoner decided to lead a clean, straight-forward life, and returned to his family in Charlotte. Soon, however, he began bootlegging, and on one of his ventures of this sort was arrested as he stood in front of the store of the man with whose murder he was later to be charged.

Habits, Characteristics and Reputation:

The prisoner appears to be aggressive and independent, and is a good talker, quite alert to happenings about him. He seems to be a nomadic

type whose craving for alcohol was tempered when he had access to it in abundance as a saloon-keeper. His propensity for fighting is suggested by his arrests on that charge. Although by the testimony of his wife, his family relations were good, he had a bad reputation in the community.

Story of the Crime Charged:

The murder with which he is charged took place about 12 o'clock at night in the suburbs of Charlotte at the little store of the man whom, it is claimed, he killed, where a dim light was burning in a meat market. Two Negroes stated that they were on the street nearby and identified the prisoner. However, the son of the murdered man who was standing near these Negroes and who saw all that they saw swore that he could not identify the prisoner as the man who killed his father. The prisoner's alibi was furnished solely by members of his family who claimed that he was at home when the murder was committed.

Requests for Commutation:

The case was tried by one of the oldest, most experienced, and most conscientious judges of the Superior Court of North Carolina who not only enjoyed a long and distinguished career on the bench, but was for many years one of the ablest solicitors of the State. Recommending commutation of the prisoner's sentence, he addressed a letter to the Governor, part of which follows:

"I wish I could see you and go into longer details of this case than I am going to do in this letter. I don't believe that this man is guilty of the killing for which he was convicted, or at least I have very grave doubts about it, and I had these doubts at the time he was tried. After the State's evidence was introduced, I suggested to the counsel representing the defendant that they submit him for murder in the second degree and let me sentence him to the State's Prison for thirty years. They had a conference with him, so they informed me, and he refused to let this action be taken, contending—as his counsel informed me—that he was not guilty of the offense charged against him; so we went along and tried the case and he was convicted.

"It is true, I think, that three Negro men swore to his identification. One of them struck me as being rather a silly Negro. And the evidence of those three did not impress me that they were telling the truth concerning the matters about which they were testifying.

"It was about twelve o'clock at night when the killing took place in the suburbs of Charlotte at a little store, and a dim light was burning in a meat market. Two Negroes stated that they were standing on the street and identified the prisoner. The son of the deceased man was standing near where the Negroes were standing, and seemed to be a very intelligent young man, and he saw all that the Negroes saw, and he swore that he could not identify the prisoner and could not swear that he was the man who killed his father. The Negro man who testified that the prisoner tried to rob him on the same night of the killing, I think, swore to an untruth as to its being the prisoner—if anyone did try to rob him.

"There is an impression among some good people at Charlotte, and was at that time, that this was a sort of frame-up on the prisoner because he had been a Negro of very bad character for several years and had been on the chaingang for quite a little while and had just been released from the gang. When I asked him if he had anything to say as to why the death sentence should not be pronounced against him, he made a short statement that impressed me, and I made up my mind

when I passed sentence upon him that I was going to ask you to commute his sentence, because, as stated above, I think there is too much doubt as to his guilt to let him go to the electric chair. Several good people in Charlotte told me that they had very grave doubts about his being guilty, and I think some of the officers, one of whom is now dead, were doubtful about his guilt. So I am asking you to commute this Negro's sentence from the death penalty to the longest term that the law will permit you to imprison him. He is getting on in years now. I do not know his age. It may develop in the future that he is not guilty, and, if it does, he can be released from prison.

"I am so fully impressed that this Negro should not die for this offense that I will be glad to take all the criticism, if any there be, upon myself in recommending the course suggested above. I think, if you had heard the case tried as I heard it, that you would have reached the same opinion that I reached. I was a little inclined to set the verdict aside, but I thought it best not to do so, as there was strong evidence that he was the man, if the Negroes testifying against him were to be believed; but I do not believe that they told the truth, and I came to this conclusion from the way they answered questions propounded to them when they were on the stand, and their demeanor and conduct while testifying".

The Solicitor of the Fourteenth Judicial District, also wrote a letter strongly recommending commutation.

Commutation of Sentence:

At the request of the prisoner the Governor interviewed him in the State's Prison at Raleigh. A most careful effort to elicit from him any fact or circumstance tending to establish his guilt proved unavailing.

It was argued to the Governor at the hearing seeking commutation, that the case against the prisoner was what might be termed "a police made case". In the opinion of the Governor, however, this contention was not sustained by the evidence.

Resting his decision upon the strong and unequivocal statements of the Judge and the Solicitor, who had better opportunity to weigh the facts, the Governor commuted the sentence of the prisoner from "death to imprisonment in the State's Prison for the term of his natural life".

Mental Condition:

On mental examination, the prisoner passed five of the six tests in the nine year group, four of the six in the ten year group, two of the eight in the 12 year group, and one of the six in the 14 year group. With a chronological age of 43 years (1927) and a mental age of ten years, four months, his intelligence quotient is 65.

CASE J

Prisoner: Negro. b. Chester County, S. C., 1906
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded
Chronological Age: 21 Years (1927)
Mental Age: 7 Years, 4 Months
Intelligence Quotient: 46.

Physical Characteristics:

The prisoner is five feet, seven inches in height, and weighs 150 pounds. He has light brown skin, smooth, well-rounded Negroid features, and a set of good even teeth. He is 21 years old, having been born in Chester County, South Carolina, in 1906.

Family History:

It was found that nine members of the prisoner's immediate family were suffering from pellagra.

Early Home Conditions:

His family lived in a two-story frame dwelling with six rooms, located on a farm near Rock Hill, S. C. The members of the family received shares of cotton and corn for their labor as croppers, and payment of rent for their house was made in kind. Later they moved from this farm to Ogden which is situated between Rock Hill and Smith's Turnout. Here they occupied a one-story, five-room frame house for which they also made payment of rent in kind.

Education:

The prisoner received no formal education, except for his attendance at irregular intervals at a one-room schoolhouse near his home. He can read and do a little writing.

Occupations:

He began working for the white man who employed his father. When farming became slack at home, he decided to seek a livelihood elsewhere until his father should send for him to return. Beginning to migrate Northward, he reached Charlottesville, Va., where he began working as a general laborer for the Southern Railway, receiving for this work $2.00 a day. After two months, farming at his home began to pick up, and his father sent for him. He returned immediately, but after a season's work at home he left again, this time for Winston-Salem, N. C., where he was employed in a tobacco factory putting covers on packages of cigarettes. This was piece-work, and was done at night. He worked here for a year, until his father again sent for him and he went back home. After farming another season, he went to Mecklenburg County, North Carolina, on a Christmas visit. Here he remained until his arrest in February.

Previous Arrest:

His only previous arraignment was before a justice of the peace in York County, South Carolina, for fighting at the age of 15. His father paid the fine of $5.00.

Marital Record:

The prisoner is unmarried.

Habits, Characteristics and Reputation:

He is not a habitual criminal. He is inclined to be secretive, but is well-mannered and pleasant, with a friendly disposition. He claims to have enjoyed "the life of a sport", and to have done some smoking and drinking when he was away from home working. In short, he would carouse and have "a good time".

Story of the Crime Charged:

On the night of February 16, the prisoner attended a Negro fish fry. Late in the evening, A, the son of a deputy sheriff of Mecklenburg County, and three rural policemen entered the house, and after having searched the prisoner and other members of the group present, threw several persons, including the prisoner, out of the door. There was no evidence in the record that the officers were armed with a warrant at the time they entered the house, or that any crime was being committed in their presence. Nor was there any evidence that the prisoner was engaged in any breach of the law before or at the time he was thrown out of the back door.

After being thrown out, the prisoner started away from the house, but was arrested by an officer and left in the custody of A while the officers returned to the house. During the time the prisoner and A were alone, at some distance from the house, A was shot with a pistol and killed. The brother-in-law of A, who was the rural policeman who arrested the prisoner after he came out of the house and who left him in the custody of A, stated in his testimony at the trial that "the man I arrested was not disorderly or resisting arrest up until the time I left him there".

Incidents of the Trial:

Three officers were present at the house where the homicide occurred, but only one of them was placed on the stand by the State as a witness. The State relied principally upon the alleged confession of the prisoner, testified to by the Chief of Police of Charlotte and made to him while the prisoner was incarcerated in that city shortly after his arrest. Since

A's father was Deputy Sheriff and Jailer of Mecklenburg County, the prisoner was sent, by order of the Sheriff, first to Union County and later to Iredell, to be confined until the trial. A's father was the court officer in the Mecklenburg Court House during the trial.

The prisoner was unable to communicate with his relatives and arrange for employment of counsel by them prior to the trial. He claims that his parents were able and willing to secure proper counsel for him. On the morning of his trial, the court assigned reputable attorneys to represent him. Upon his arraignment, and just after their appointment, these attorneys stated to the court that they had no knowledge of the case, except such as could be developed from brief conversation with the prisoner; that the prisoner had had no opportunity from the time he was charged with the crime to procure witnesses or to make any arrangements for his defense; and that it would be practically impossible for attorneys properly to prepare the defense by the following day, the time set by the court for the trial. For these and other reasons the attorneys for the prisoner moved for a continuance for a short time in order that they might properly prepare their defense and obtain necessary witnesses. The motion was overruled by the court as a matter of discretion.

Evidence offered at the trial established the fact that the deceased, who was represented at the trial to have been an officer of the law at the time he was killed, was, in fact, not an officer at that time. It appeared also that the homicide took place during the disorder that began when the officers entered the house. The evidence was also very strong to the effect that the entry of the officers into the house where the Negroes were created great excitement, confusion and disorder among the large number of men and women gathered there.

Statement by the Prisoner:

His version of the murder was given by the prisoner in the following statement made immediately after his arrest:

Q. Did you run?
A. No. I did not run. They caught me inside.
Q. Did you have a gun?
A. I had a gun but I did not have it with me. My uncle gave it to me.
Q. What kind of gun was it?
A. It was a 32.
Q. What did the officer do?
A. They searched me three times. They kicked me out of the house.
Q. Did they find anything on you when they searched you?
A. They did not find any whiskey. I did not have anything but a little knife about two inches long.
Q. Where did you go when you left that house?
A. I went to my uncle's house.
Q. Where were you when the shot was heard?
A. They backed me behind the house and left me with one officer. I suppose he was an officer, but I do not know whether he was an officer or not. He caught my right arm.
Q. Was he holding your arm when the shot was fired?
A. Yes, he was holding my right arm here (just above the elbow) and I heard a shot fired. Then I ran. I did not run either but I walked away.
Q. Do you think you were too drunk to know who fired the shot?
A. I was drinking, but I was not drunk. I do not know where the pistol was shot from.
Q. Did the pistol shot sound near?
A. The shot sounded very close.
Q. How far were you from the house?
A. I was about 100 yards from the house.

Q. Were there any bushes or houses near the house?
A. There were bushes and one or two houses near the house.
Q. Were there any bushes right where you were standing?
A. No, the bushes were about 100 yards from where I was standing. There was nothing right there except an old house.
Q. Did the officer say anything to you?
A. He asked me if I knew where any whiskey was, and I told him I did not. He started hitting me.
Q. What did he hit you with?
A. He hit me with his fist. He knocked me down three times. He was knocking me down when the shot fired.
Q. Did he say anything when he was shot?
A. I did not hear him say anything.
Q. When were you arrested?
A. I was arrested the next week. I was at my uncle's house then.
Q. Why did they come to arrest you?
A. A boy told them he saw me with a gun of the same make as the one with which the man was killed.
Q. Did they have this gun in court?
A. Yes sir, they brought the gun to court. They said he was killed with a 32 just like mine.
Q. Did you try to fight the officer?
A. No sir, I did not try to fight the officer.
Q. What were you doing in Charlotte and how long had you been there?
A. I went to Charlotte to spend Christmas with my uncle, and had been there about one month.
Q. In whose house was the party given?
A. It was a house in Myers Park.
Q. What was the name of the man?
A. His name is B.
Q. Did he own the house?
A. No, it belonged to a white man but he was just living there.
Q. Had you been accustomed to going there?
A. No sir, I had never been there before.
Q. How did you happen to go the night of the party?
A. I got with some boys and they asked me to go.
Q. Did the boys live there?
A. No sir, they were just country boys.

Commutation of Sentence:

Immediately following the trial, requests for commutation of the prisoner's sentence were presented to the Governor by more than 100 of the best people of Mecklenburg County, including a number of the court officers and attorneys who had no connection whatever with the case. The only protests against commutation came from the father of the deceased, who was the Chief of Rural Policemen of Mecklenburg County, several of the rural policemen working under him, and one or two others.

On account of some unusual facts and circumstances disclosed, the Governor, from the beginning, felt constrained to give the case prolonged and most careful consideration. For that reason, he not only personally held several hearings in the case, but requested the Commissioner of Pardons to proceed to Mecklenburg County, and make a very careful investigation into every available fact and circumstance that would throw light upon the matter. Finally, he issued a subpoena for the Chief of Police of Charlotte who was examined with great care as to the facts and circumstances of the trial and as to his testimony before the trial court. Other evidence not produced at the trial was also heard by the Governor and by the Pardon Commissioner.

In commuting the prisoner's sentence the Governor said, "While I feel very reluctant generally to interfere with verdicts of juries and judgments of courts, I have from a careful consideration of the evidence produced upon the trial, as well as evidence presented to me which was not available at the trial, felt constrained to conclude that the ends of justice will not be subserved by the infliction of the death penalty in this case. I, therefore, commute the sentence from death to imprisonment in the State's Prison at hard labor for the remainder of the prisoner's natural life".

Mental Condition:

The chronological age of the prisoner is 21 years (1927). His mental age is seven years and four months, and his intelligence quotient, 46.

CASE K

Prisoner: Negro. b. South Carolina, August 29, 1900.
Charge: Rape
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded
Chronological Age: 27 Years (1927)
Mental Age: 11 Years
Intelligence Quotient: 69.

Physical Characteristics:

The prisoner is a man of medium height who weighs 150 pounds. He has brown eyes, dark brown skin and large, flabby features. He is 27 years old, having been born in South Carolina on August 29th, 1900.

Family History:

He does not know whether his parents, who were slaves, were ever married. They died when he was quite young. He was the youngest of 15 children. His five brothers had criminal careers, and two of them met death by being shot in a gambling brawl.

Education:

At the age of eight years he left school when he was in the second grade.

Occupations:

As a boy he lived in Waxhaw. Later he was a resident of Big Island and Lynchburg, Va., Mayberry, Thorpe, and Lanesburg, W. Va., and still later he spent a few months in Indiana. In West Virginia he worked as a coal miner, making good money, but spending it and gambling heavily. He has also worked as a common laborer and truck driver. Because of his ungovernable temper, he was not able to hold a job for more than four or five months.

Previous Arrests:

His criminal career began when he was 11 years old when he was convicted of attempting assault with intent to rape. For this, he was sentenced to 15 years imprisonment. He served six years at the Whitney Camp from which he ran away at the age of 17. He managed to keep clear of the courts for several years, but was constantly engaged in one offense or another. His close contacts with older men in prison probably gave him all the training he needed for a career of crime.

In 1924 he was engaged in a shooting scrape in Lynchburg, Va., in which he shot and killed a man. For this he was sentenced to death in the electric chair. But he escaped, and his Virginia sentence is still pending while he is imprisoned for life for rape in the North Carolina State Prison.

After his escape from Virginia he went to Winston-Salem where, after a short time, he was arrested on two charges. The first was for stealing clothes. The authorities, however, dismissed this charge in order that he might be arraigned on the second charge of rape.

Marital Record:

While living in Virginia, the prisoner says, he "went with four different women". The duration of his illicit relations with three of these paramours was eight, four and five months respectively. In 1919 he was forced to marry a woman of Greenbriar, W. Va., with whom he lived for five years. One girl, who is still living, was born to them. In 1924 he left his wife and moved to Lynchburg where he lived with one of his "women" for eight months.

Habits, Characteristics and Reputation:

He is a chronic fugitive from justice, and, never loses an opportunity to give trouble to prison officials and guards. He is the only C-grade prisoner in the Negro group whose histories are given here, all the others being of A and B grade. He has an ungovernable temper.

From the older prisoners with whom he was associated during his first imprisonment he learned of sex offenses which they had committed, in compensation for a sex life which he had wished even at the early age of 11 years. His mental examination showed indications of hypersexuality, a condition with which he was faced in addition to his training for six years in the prison's school of crime. He was also taught the art of burglary. Being a man of low mentality, he did not succeed in covering his crimes, but carried out his criminal training during his short periods of freedom from prison.

Story of the Crime Charged:

The alleged victim of the prisoner's last rape charge was a mature Negro woman, the mother of two illigitimate children, and of bad moral reputation. She claims that her four months old illegitimate child is the prisoner's daughter. He admitted that he had been "going with" this woman for three years prior to the date on which she had him arrested for rape.

During the trial the woman and her sister testified that the prisoner entered the room in which the prosecutrix, her baby, and two younger sisters were sleeping. They further testified that the prisoner awakened the prosecutrix and compelled her to get up from her bed and go with him to another room at the rear of the house where the crime is alleged to have been committed. A sister of the prosecutrix stated that she was awakened by the prisoner's entrance to their bedroom, but that she made no outcry, and remained in her bed while he required her sister to accompany him to the other room.

The prisoner's version of this incident follows:

"The prosecutrix sent me word that she had had a baby, and she accused me of being the father of this child, and said that if I did not come and see her and give her some money for the child she would take out a warrant for me. That night I went to see her. While there, I took off my shoes and my clothes, and when I was ready to go, I got dressed, but she locked my shoes up in the closet. Then we had an argument and fought, practically the entire night. The following morning, she swore out a warrant charging me with rape".

Commutation of Sentence:

Shortly after the prisoner's conviction and sentence to death in the electric chair the Solicitor who represented the State in his prosecution, called the Governor over long distance telephone to say that he and the trial Judge, after investigation, desired to recommend unreservedly a commutation of the sentence of death to one of life imprisonment. The Solicitor gave as the reason for requesting executive clemency, the fact that his attention had been called to the case by an affidavit made by one of the jurors, "in which the affiant stated that after hearing the evidence in the case, arguments, and the charge of the Judge, and before arriving at a verdict of guilty with a recommendation for mercy, and being answered by the court that such a verdict was permissible, the jurors found the defendant guilty of the charge and recommended mercy; that this affiant was, and is of the opinion that the other eleven jurors who sat on the case were under the impression that a verdict with said recommendation did not carry with it a death sentence, but that of life imprisonment; that had the jurors known or been instructed by the court, that a verdict with said recommendation meant a death sentence, this affiant would not have voted to convict the defendant of rape, and is of the opinion that the other jurors would not have voted to so convict the defendant, but would have found him guilty of a minor offense".

The Governor also had an investigation made through the office of the Chief of Police in Winston-Salem and read over the testimony of all the witnesses who were examined on the trial. After taking into consideration the testimony of the prosecutrix and her sister, relative to the bedroom incident, and other facts presented by the Solicitor and the trial Judge, particularly their unreserved recommendation for a commutation of the sentence of death to one of life imprisonment, the Governor, expressing great confidence in their opinion and general attitude in matters of this kind, commuted the sentence of the prisoner to life imprisonment.

Mental Condition:

The prisoner's chronological age is 27 years (1927). His mental age is 11 years, and his intelligence quotient, 69. He passed four out of the six tests in the 10 year group; four out of the eight in the 12 year group; and only one in the 14 year group.

CASE L

Prisoner: Negro. b. Dinwiddie County, Virginia, June 14, 1896
Charge: First Degree Burglary
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Subnormal or Retarded
Chronological Age: 31 Years (1927)
Mental Age: 12 Years, 4 Months
Intelligence Quotient: 77.

Physical Characteristics:

The prisoner is a small man, weighing 134 pounds. He is 32 years old, having been born in Dinwiddie County, Virginia, on June 14, 1896.

Early Home Conditions:

During his childhood he lived in the two-story log cabin near Petersburg, Va., in which he was born. Here he was cared for by his mother, who sent him to school during his early years. His mother is at present living in Petersburg.

Education:

The prisoner received the little education he has before he was 11 years old, the age at which he started to work.

Occupations:

When he was 11 years old he began working in a tobacco factory in Petersburg. He was paid 25 cents a day for "toting" tobacco. He remained here for a year, and then did the same sort of work at another factory at 40 cents a day.

Later he went to work as a delivery boy in a five and ten cents store. He held this job for four years at $3.50 a week, and then became shipping clerk in another nearby five and ten cents store where his wages were increased to $10.00 a week. After two years and a half, his desire

for change led him to work as butler for 18 months. During the following year he earned approximately $30.00 a week as a bootblack in a barber shop.

At the suggestion of an aunt who was living in Newport News, he left home for the first time to work in the Newport News ship yards. His stay here was brief, and he soon returned to Petersburg. When he was 25 years old, the desire to make money quickly led him to open a gambling house. This was soon raided by the police, and the prisoner was forced to serve six months on the county roads. When he had served his time, he worked as a piano player for parties and dances, making from $10.00 to $15.00 a night. He was also a house painter.

Before coming to North Carolina he spent six months in Danville, Va., working as a brickmason for $1.00 an hour. He did this, he says, in order to try to erase the stigma of his sentence on the county chain gang.

He moved to Plymouth, N. C., from Norfolk, Va., with a man whom he had met in Norfolk and with whom he had become quite friendly. His visit to Plymouth was his first venture in North Carolina. While there, he shared quarters with the man who had accompanied him from Norfolk. He was employed by this man from time to time for two years.

Previous Arrests:

His first conviction came when he was 15 years old, when he was fined $5.00 for playing ball in the street. His mother paid the fine and he was released.

As mentioned above, he served six months on the roads for operating a gambling house in Petersburg.

After about two years in Plymouth he wished to visit relatives in Petersburg, Va., and being on very good terms with the man with whom he lived, he borrowed some of his clothes without, it seems, the owner's expressed permission. The prisoner promised to return with the clothes, but stayed in Petersburg longer than he had anticipated. Whereupon, the owner of the clothes swore out a warrant for his arrest, and upon his return the prisoner was served with the warrant, tried and convicted, and sentenced to 30 days imprisonment in the Plymouth jail.

Marital Record:

The prisoner is unmarried, but he has lived with two women outside of wedlock—the first for four years, and the second for two years.

Habits, Characteristics and Reputation:

He is talented in painting, and since his last imprisonment has painted a large collection of water colors, representing original ideas of the roads to Christian living and to the doom of the electric chair. He is also musical and can play the piano.

Story of the Crime Charged:

Soon after his confinement in the Plymouth jail, the prisoner was made a "trusty" and, as such, was assigned as a guard over the jail at night. Next to the jail, known as the "stockade", is the residence of A, from whom the prisoners were accustomed to make purchases. One day, while making a purchase and receiving change, the prisoner noticed that there was a large amount of money in the change box, apparently several hundred dollars in currency, as well as much silver change. In the store on this occasion he heard A state that a relative would come to visit them and would arrive at 12:30 that night.

While he was standing guard that night, the prisoner met an elderly man from A's place, and reminded him that the relative was expected. This man was of the opinion that the relative was to come on the morrow, but when the prisoner related the conversation he had heard, the man requested the prisoner to accompany him to the railroad station, a few blocks away by the road on which both the stockade and A's residence were located. The prisoner agreed, and they set out with a lantern, leaving the door of A's residence unlocked.

After they had covered part of the distance, the prisoner announced that he would have to return for a moment, but would soon rejoin his companion. He made his way stealthily to the gate of A's residence. He was unarmed. When he entered the gate, the dog barked loudly, arousing A's wife, who went to the door. The prisoner entered by another door, tried to find the money, failed, and fearing capture, made a hasty exit and escaped.

He was captured the next morning a few miles away. At the trial the State tried to introduce the motive of rape in addition to the charge of first degree burglary. The defendant attempted to have the charge read, "house-breaking". The trial Judge would not agree to that at this time, but after the prisoner's trial and conviction he modified his opinion. The prisoner was convicted of first degree burglary and sentenced to death.

Commutation of Sentence:

The Sheriff of the county, Clerk of the Superior Court, and every member of the jury signed a petition for commutation of the prisoner's sentence. The Sheriff states now that the prisoner was a useful citizen, that he has had sufficient punishment and should be released. The original petition was signed also by all the occupants of the house in which the crime was committed.

The Congressman for the First North Carolina District addressed a letter to the Governor relative to the prisoner, part of which follows:

"I was present at the trial of the prisoner for burglary in the Washington County Court. I certainly do not think the death penalty ought to be imposed on this man. My reasons were much stronger then, as I saw and understood the situation and the appearance of the defendant, than I am now able to state them.

"Of course you discount my letter very largely from your opinion of me, that if I was Governor I would pardon everybody. However correct you may be about that, this man ought not to suffer the death penalty. Neither public opinion, the safety of society, the integrity of the courts nor the majesty of the law demands it."

The Judge who presided at the prisoner's trial sent the following telegram to the Governor:

"Owing to great doubt whether evidence sufficient to establish burglarious breaking and for mental condition will recommend commutation of the prisoner."

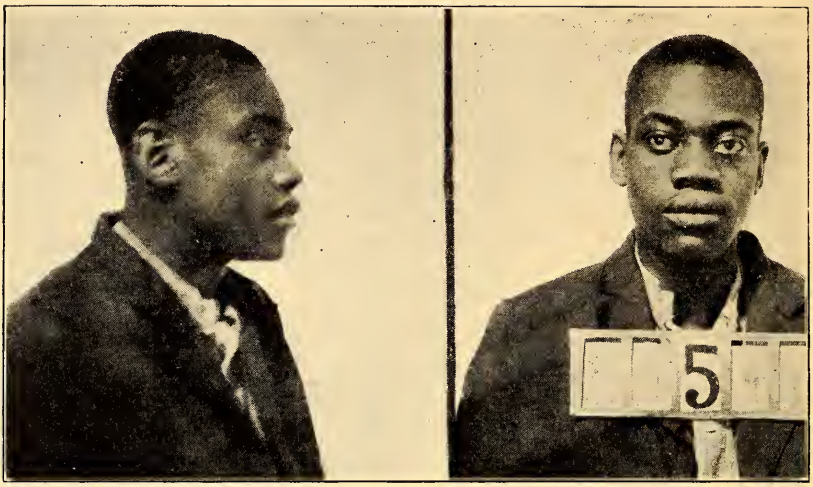
In his statement granting commutation, the Governor referred to the alleged assault by the defendant on A's wife. He also stated that "the reason alleged for this remarkable unanimity in the county among the

officers favoring commuting the sentence is that they do not believe that the prisoner realized the enormity of his crime on account of his low mental condition, and that he simply meant to commit a theft".

Mental Condition:

The prisoner's chronological age is 31 years (1927). His mental age is 12 years, four months, and his intelligence quotient, 77. While the intelligence quotient is considerably higher in this case than in the others that are diagnosed as feebleminded, it should be noted that there is a much more clear-cut grouping of the tests passed: thus there is only one test passed above the 12 years group. "I believe", adds the examiner, "that this is a definite case of high grade defect in general intelligence."

CASE M



Prisoner: Negro, b. Raleigh, N. C., 1909(?)
Charge: Rape
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded
Chronological Age: 18 Years (1927)
Mental Age: 6 Years, 2 Months
Intelligence Quotient: 39.

Physical Characteristics:

The prisoner is six feet tall and weighs 145 pounds. He has dark brown skin, kinky black hair, and distinctly Negroid features, including a broad nose and thick lips.

When he was six years old, a white spot appeared in his right eye. The doctor told his mother that it was the result of "strong medicines given to him by his grandmother". However, other members of his family who had no contact with the grandmother seems to have been similarly afflicted.

Family History:

He is of illegitimate parentage. His mother was legitimate. Her father sent her to work for an employee of the State Capitol in Raleigh. She herself received no pay for this work, as her employer sent her wages to her father. She kept this job for ten years. Her schooling lasted less than a year, and she can read and write only a little. She is not a church member. For years she has borne the name of the family of the prisoner's father to whom, she claims, she was married. She began her relations with him when she was 13 years old. She claims also to have married the father of the prisoner's half-brother and of two infants who died shortly after birth. She says that before she married this man she had heard that the prisoner's father was dead.

His father left home with a group of boys to join the Navy and has not been heard of since.

Education:

The prisoner was never a regular attendant at school, and stopped when he was in the fourth grade.

Marital Record:

He is unmarried. His mother volunteered the information that he paid no attention to girls before he was 17 years old.

Habits, Characteristics and Reputation:

He is inclined to be well-mannered, and is not very talkative. As far as his mother knows, he did not drink. He is of low mentality, and appears to be without special ability of any sort.

Story of the Crime Charged:

The crime with which the prisoner was charged is said to have been committed about Christmas, 1925, but he was not arrested until March of the following year. At the trial, the plaintiff, a white woman, stated that she met the prisoner on a road near the edge of the city between seven and eight o'clock one Friday evening. It was then, she claims, that he assaulted her. She testified that she returned by this same road on the following morning, when she again met the prisoner, but they did not have anything to say to each other.

During the winter, the prisoner was confined to his bed with influenza, but early in March he was able to get up, and stayed in and about the house. Soon he was able to return to work. The day after he went back to his job he was arrested as he returned home. At the trial he offered an alibi which was sworn to by the white man and his wife for whom he worked. Twelve white witnesses and two Negro witnesses attested his good character.

Commutation of Sentence:

Believing that the State of North Carolina should throw around every one of its citizens every safeguard, the Governor requested the Superintendent of the State Hospital for the Insane at Raleigh and his Chief of Staff, the Secretary of the State Board of Health and a member of his staff, a leading physician of Raleigh, the Clerk of the North Carolina Corporation Commission, the State Warehouse Superintendent, and the Chief of the Bureau of Markets to visit the condemned prisoner and satisfy themselves as to his mental condition, and then report to him. They were given no instructions or suggestions as to how they might arrive at their conclusions, but were merely asked to spend such time and make such inquiries and investigations as to satisfy themselves as to whether the Negro was of such mentality as would enable him to determine right from wrong.

Their investigation lasted several days, and the gentlemen named above advised the Governor that they had gone very thoroughly into the case by seeing and talking with the prisoner, inquiring into his past life and otherwise seeking information about him. They reported that they were of the unanimous opinion that the prisoner was an imbecile or low type moron, with the mentality of not more than that of a child of eight years, and thus, could not be held responsible for his acts as contemplated by law.

Upon receiving this report, the Governor issued an order commuting the prisoner's sentence to life imprisonment. His order closes with this paragraph:

"The sentence of the prisoner has been commuted to life imprisonment because of the strong conviction that the State of North Carolina should under no circumstances take the life of one of its citizens who

is not mentally capable of understanding the consequences of his acts. Whatever the facts surrounding the crime may have been, I believe that the dictates of humanity forbid the taking of life where the subject is insane. With this in mind, the prisoner is this day commuted to life imprisonment to be worked and treated as provided by law".

Mental Condition:

The prisoner is probably 17 or 18 years old, but upon examination was unable to give his exact age or the date of his birth. His mental age is six years and two months, his basal age, seven years, and his intelligence quotient 39. While he seemed perfectly willing to answer the questions put to him, there was no indication of any interest on his part. His whole attitude was that of an individual naturally very dull and stupid. The degree of his general intelligence is very adequately indicated by his mental age; that is, he has a mental development corresponding very closely to that of the normal child of six years. This is a case of definite feeblemindedness.

CASE N

Prisoner: Negro. b. Edenton, N. C., 1892
Charge: First Degree Burglary
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Mentally Retarded
Chronological Age: 35 Years (1927)
Mental Age: 12 Years, 11 Months
Intelligence Quotient: 81.

Physical Characteristics:

The prisoner is five feet, five and one-half inches in height, weighs 145 pounds, and has brown skin and good, even features.

Family History:

His mother died when he was very young, and his father deserted him soon after, leaving him in the care of his grandparents.

Early Home Conditions:

Most of the prisoner's early life was spent in New Bern, N. C., where he lived with his grandparents in an old two story, four room, frame building which was in a fair condition of repair and was owned by the grandparents. The house and lot had a value of approximately $700.00. There were six or seven members of the family who shared the home with the prisoner. From infancy until he was 21 years old the prisoner did not see his father who had left home soon after his wife's death, and he took the name of his grandparents.

Education:

He reached only the fourth grade in school.

Occupations:

As a youngster, the prisoner seems to have been fairly industrious. His first job was doing house work in the home of a physician, service for which he received 80 cents a week and board. Then, for five or

six years he worked as a fish peddler. His commission was 25 cents on the dollar, and he averaged as much as $5.00 a day.

Upon his release from prison at the expiration of his second sentence for burglary, he returned to New Bern and took preliminary steps looking toward an independent business career. He went to work in a sawmill near New Bern, and after working there for two or three months, he had earned enough money to buy clothes for himself and open a café. He ran this café for a year, employing two or three assistants, and clearing at least $10.00 a week. Becoming dissatisfied because his café was not proving sufficiently lucrative, he went back to work for his former employer, the fisherman.

Previous Arrests:

His first offense, burglary, was committed when he was 16 or 17 years old. On this charge he was convicted and sentenced to 10 years in the Penitentiary. Because of his good prison record, and the legal provision for prisoners to earn "gained time" for good behavior, he served only five years and three months. Upon his release, he moved to Norfolk, Va., where he was again arrested and convicted of burglary. For this he served three years and four months of a five year sentence.

Marital Record:

The prisoner is unmarried, although at a very early age he began having sex relations with girls in his neighborhood.

Habits, Characteristics and Reputation:

Although he is diagnosed as mentally retarded, he gives the impression of being above the average in intelligence, showing special ability in the solution of problems. He was fond of dancing and was an inveterate gambler. He claims that his heavy gambling losses were responsible for his tendency to burglarize in order that he might maintain the fast gambling pace which he had set. Although he was restless and of a migratory temperament there were periods in which he worked steadily. Before his last conviction he had no religious or fraternal affiliations, but he has recently joined the Baptist church to which he was drawn by the Prison Chaplain, and says that he believes that he has found in religion a hope for the future and an incentive to a life that is socially more useful.

Since the commutation of his sentence he has maintained a model prison record, Grade A. At present he is located at the State Prison Camp Incorrigible at Stokesdale where he is employed as a camp cook. He is the only Negro prisoner in this group.

Story of the Crime Charged:

One Sunday morning during the winter prior to the New Bern fire, the prisoner met his employer, a fisherman, on the street and asked for a loan of money. The fisherman told him to come back the next morning since his religious convictions prevented him from "doing business on Sunday". Needing money immediately to cover his gambling losses, the prisoner sought it illegally that night. According to the evidence, he was unarmed when he smashed a door and attempted to burglarize at night. His entrance into this home awakened the inmates. A shot fired in the dark pierced the prisoner's side, and though badly wounded, he returned home and called a physician who ordered him moved to the hospital. While in the hospital he was accused of burglary in the first degree, and upon his recovery he was tried, convicted and sentenced to death in the electric chair.

Commutation of Sentence:

After the prisoner had been reprieved three times, the Governor commuted his sentence to life imprisonment, saying: "Upon the recommendation of the Judge and Solicitor who prosecuted and sentenced the prisoner, and of many good citizens and of the physician who states that he (the prisoner) is of very low mentality, I commute his sentence to life imprisonment in the State's Prison".

Mental Condition:

The prisoner was not so low in the mental scale that he could not make a good living. He made the highest score on the intelligence tests of any of the Negroes whose history are given in this study. However, his mental age is 12 years, 11 months, as compared with a chronological age of 35. His intelligence quotient is 81.

CASE O

Prisoner: Negro. b. Williamston, N. C., July 3, 1901
Charge: First Degree Murder
Sentence: Death
Electrocuted September 23, 1927
Mental Diagnosis: Feebleminded
Chronological Age: 26 Years (1927)
Mental Age: 8 Years
Intelligence Quotient: 50.

Physical Characteristics:

The prisoner was a short, under-sized man of ordinary appearance. He had light brown skin, large round head, and pleasant features.

Family History:

He came from a very poor stock. His parents were backward, ignorant folk who lived in Martin County, North Carolina.

Early Home Conditions:

He was reared in Martin County, in this State, and had always been a resident of North Carolina. As a youth he lived the rural life of his section, helping his father to farm. His home was a very poor, one story, three room frame dwelling without conveniences or more than bare necessities.

Education:

He attended school until he was 16 years old, but when he stopped school he had reached only the fourth grade.

Occupations:

For varying periods after leaving school he worked as a farm hand and common laborer for white people near his home.

Marital Record:

The prisoner was married and had six children. After his conviction his wife was forced to go to Greenville to work as a tobacco hand. With

her she carried the oldest and the youngest child, and the four others were left with their maternal grandmother who lived in the country near Williamston.

Habits, Characteristics and Reputation:

The prisoner was in every sense a "home body", and had not been accustomed to visit even Williamston, the large town nearest his home, very often.

Story of the Crime Charged:

A white boy left Williamston with a truck load of tobacco bound for delivery at the market at Wilson. When this boy was last seen driving through Williamston, the prisoner was on the driver's seat with him, according to the testimony of several witnesses. The white boy was never seen alive again, and his body was found later in some underbrush.

The State claimed that the prisoner delivered the tobacco on the warehouse floor and that, upon being questioned as to the whereabouts of the white boy, he could give no explanation. He left the warehouse and did not return for his check in payment for the tobacco, and he was arrested at his home near Williamston.

Incidents of the Trial:

His parents immediately took steps for his defense, and although very poor, they raised $70.00 as a retainer for a lawyer to represent their son. This lawyer, however, after accepting the fee, made an investigation, but because the parents were unable to secure the second payment on his fee, he refused to appear in court at the trial. A second lawyer was retained who represented the prisoner at the trial and subsequently at the hearing before the Governor when commutation of his sentence was sought. In order to pay the second lawyer's fee and other expenses of the defense, the father mortgaged his farm. The prisoner did not take the stand in his own defense, and a chain of circumstantial evidence forged by the State resulted in his conviction on the charge of first degree murder.

Reprieves:

After his sentence of death, several reprieves were granted by the Governor in order that the prisoner's attorney and the Pardon Commissioner could make a complete investigation. Nothing was discovered, however, that showed a miscarriage of justice. The Governor therefore refused to extend executive clemency, and the prisoner died in the electric chair on September 23, 1927, stoutly maintaining to the end that he was innocent of the crime charged.

Mental Condition:

The prisoner's chronological age was 26 years (1927). His mental age was 8 years, and his intelligence quotient was 50. He was definitely feebleminded. He passed five out of the six tests in the eight year group, but only one in the nine year group, and failed on all in the ten year group.

CASE P

Prisoner: Negro. b. Gates County, North Carolina, 1901
Charge: First Degree Murder
Sentence: Death
Sentenced Commuted to Life Imprisonment
Present Location: State Hospital for Negro Insane at Goldsboro
Mental Diagnosis: Catatonic Dementia Praecox.

Physical Characteristics:

The prisoner is six feet in height and weighs 198 pounds. He has light brown skin and is slightly bald. He is 27 years old (1928) having been born in Gates County, North Carolina, in 1901.

Family History:

All of the prisoner's ancestors were of very poor stock living in backward, undeveloped communities. His paternal grandmother was insane.

He is a member of a family of eight children. All of his brothers and sisters appear to be mentally defective, and one of his brothers has been an epileptic since birth.

Marital Record:

When he was arrested for murder the prisoner had been married five years, and was the father of three children, one of whom is an idiot. Prior to his marriage he had lived with a woman for two years without the formality of marriage. This woman had been treated for syphilis and gonorrhea for two years and was almost totally blind.

Story of the Crime Charged:

The prisoner shot and killed a deputy sheriff of Gates County while the officer was engaged in the performance of his duty.

Opinions About the Prisoner's Condition:

The Judge before whom he was tried expressed his opinion of the prisoner in the following words:

"I feel that the merciful intervention of the pardoning power ought to be invoked, and in this case I ask you to intercede in his behalf, I am confirmed in this view by the Sheriff of this county where the prisoner was tried, who says that he has seen him recently, and that he has no mind at all. I insist that the prisoner ought not to go to the chair and that life imprisonment would be a proper punishment for him".

After the commitment of the prisoner to the State Prison the Governor directed the Commissioner of Pardons to have him closely observed and to have three doctors, one a member of the staff of the State Hospital for the Insane at Raleigh, make careful examination of him. They advised the Governor as follows:

"At your request we have examined the prisoner and we are of the opinion that he is of unsound mind. We recommend that he be transferred to the criminal insane hospital at Goldsboro for further observation and complete detailed examination including physical, neurological and laboratory findings".

Upon receipt of this report by the Governor, the prisoner was transferred to the criminal division of the State Hospital for Negro Insane for observation. A reprieve of 30 days was extended him in order that a thorough examination might be made. After this period of observation, the hospital authorities reported:

"The said prisoner has been under daily observation during his stay in the institution and we, the undersigned, wish to report to you that in our opinion he is now insane, having the catatonic form of dementia praecox."

In the meantime, the Commissioner of Pardons went to Gates County to investigate the case and advised the Governor that while the mentality of the prisoner was never brought into question, the mental weakness of other members of his immediate family was generally conceded. The Commissioner interviewed the father of the murdered officer and others interested in the prosecution of the prisoner. The Sheriff of Gates County and other citizens who had opportunity to observe the prisoner expressed the opinion that he was insane.

Commutation of Sentence:

In commuting his sentence, the Governor made the following statement:

"While the father of the young officer feels deeply the loss of his son and the guilt of the prisoner, I am advised by the Commissioner of Pardons that he is in accord with the great body of intelligent sentiment throughout North Carolina that the taking of the life of a prisoner who is insane would not be in accordance and in keeping with the dictates of humane society. This spirit on the part of the father of the deceased cannot be commended too highly. It is indicative of the high character of our citizenship and calls not alone for character, but a high sense of duty to one's fellowman regardless of the personal suffering that has resulted.

"The case of the above named prisoner has been before me for several months and has been given most careful attention and consideration. After carefully reviewing all the facts and circumstances and after having utilized every available means to determine the true status of the prisoner, I am convinced that the prisoner is an insane man and therefore without regard to the degree of his guilt I am disposed to believe that Christian society has risen above the idea that a life should be exacted of an insane man. Acting upon this theory of the case and after having given time for thorough and complete investigation I have this day com-

muted the sentence of the prisoner to life imprisonment and have made this statement a part of the record in the case in order that my successors in office may have the benefit of this information, because I do not believe that the prisoner should have further clemency shown him".

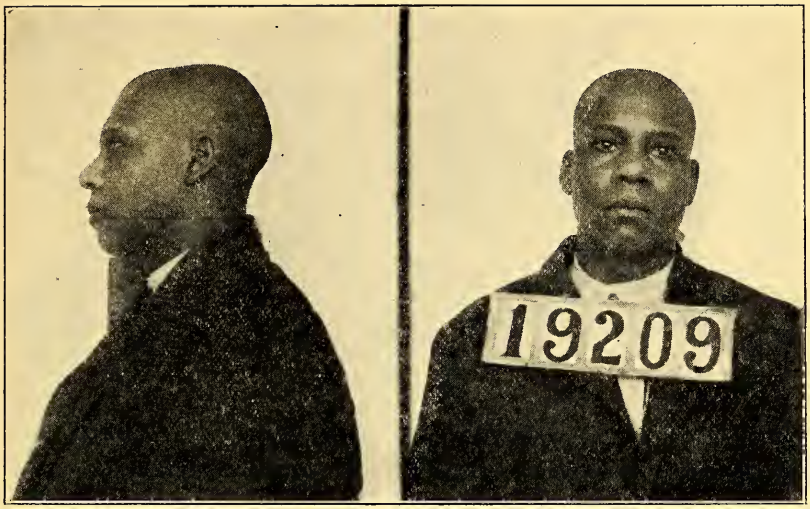
Mental Condition:

Examination of the prisoner prior to the diagnosis of his condition as dementia praecox by authorities at the State Hospital for Negro Insane showed his condition to be as follows:

At the time of the examination the prisoner was apparently in a marked state of confusion. He was disoriented for time and place, stating that it was summer time and morning although the actual time was about three o'clock in the afternoon. He thought that the building in which he was examined was a church. He stated that he came to the institution the day before, that he had not had any dinner, and that he did not talk to any white man during the morning, although a representative of the State Board of Charities and Public Welfare had talked to him and taken his history. He was unable to tell the name of the President or of the Governor of the State. He did not know who brought him to the institution, nor why he had been brought there. In going back to his cell from the third floor, he did not seem to realize where he was, and attempted to go into each door that he came to, was unsteady in his gait, and had a vacant expression in eyes and face.

The examiners were unable to tell how much of the condition which they observed was the result of emotional disturbance due to the fact that within a day or two preceding the examination the prisoner had learned of the failure of his appeal from electrocution. The examiners did not feel, however, that the entire condition was the result of this factor, but that the prisoner was suffering from mental deterioration.

CASE Q



Prisoner: Negro. b. Moore County, North Carolina, April 29, 1905
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Probable Subnormality in General Intelligence with Psychopathic Condition
Chronological Age: 22 Years (1927)
Mental Age: 10 Years, 4 Months
Intelligence Quotient: 65.

Physical Characteristics:

The prisoner is five feet, five inches in height and weighs 137 pounds. He has rough, black skin and is rather stooped. He is 22 years old (1927) having been born in Carthage, N. C., April 29, 1905.

Early Home Conditions:

An illegitimate child, he never knew his mother, father nor any of his relatives. He never attended school and has led a migratory existence all of his life.

Story of the Crime Charged:

He had been living in Chowan County about two or three months, and while there he became associated with A, whose reputation was very bad and who had had many court convictions and had served several sentences for various offenses. One evening at dusk the prisoner and A waylaid on the highway an elderly white man who was returning to his home from the town of Edenton where he had been selling his farm products that day. The old man was held up and robbery was attempted. He resisted and was shot in the breast.

Just after the murder, as the boys were about to escape with his money, the glaring headlights of an automobile approaching around the curve in the road frightened them, and they fled. A general alarm was

raised and the prisoner and his associate were speedily apprehended and brought to trial. On the morning set for the trial, the court appointed two lawyers to represent the defendants. Each of them endeavored to incriminate the other, but both were found guilty of first degree murder and were sentenced to die by electrocution.

Commutation of Sentence:

Soon after they were committed to the State Prison, many reputable white persons of Moore County petitioned the Governor to commute the sentence of the prisoner because of his youth and also because of his low mentality. Both the Judge and the Solicitor refused to recommend commutation of the sentence of his associate, A, but urged that the ultimate decree of the courts be carried out in his case. On Friday, February 18, 1925, A was electrocuted, and just before entering the death chamber he confessed to firing the shot that killed the old farmer. He said that the prisoner also fired at the victim, but missed.

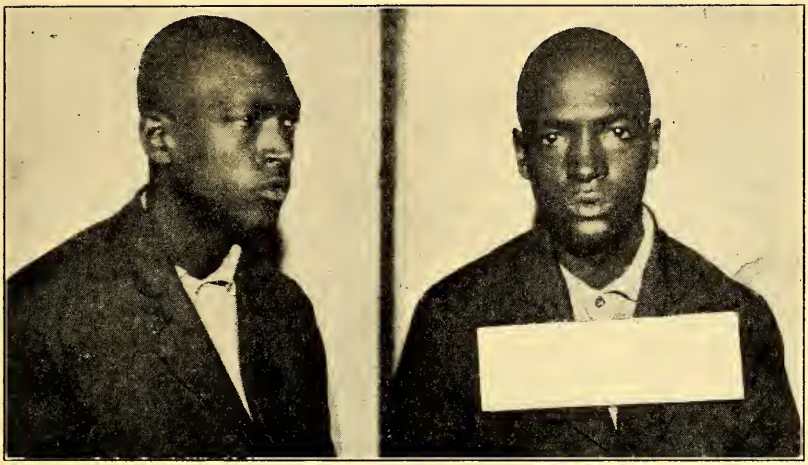
After giving six hearings to those urging commutation for the prisoner, the Governor issued the following statement in commuting his sentence.

"The prisoner appears to be only about 18 years of age, and it is represented to me by reputable persons from his home in Moore County that he is much below normal in mentality. Several petitions, signed by a great many citizens of the county and community in which the crime was committed, were presented in this case. Taking into consideration all the facts in the case, particularly the urgent recommendations of the Solicitor, concurred in by the Judge, in whose opinion and general attitude in matters of this kind I have very great confidence, I hereby commute the sentence of this prisoner from death to life imprisonment".

Mental Condition:

The prisoner's chronological age is 22 years (1927). His mental age is ten years and four months, and his intelligence quotient 65. The results of this examination are not clear-cut. The range of successful responses is much wider in this case than usual, extending from the basal age of eight years through the 16 year group. There is an unevenness in response that indicates a psychopathic condition rather than one of definite feeblemindedness. Frequent fine tremors of the head and occasionally of the body, which the subject claims to have had as long as he can remember, suggest there is a definite involvement of the neural system, and that thorough examination by a neurologist would be advisable.

CASE R



Prisoner: Negro. b. Wilson County, N. C., November, 1905(?)
Charge: Rape and Murder
Sentence: Death
Electrocuted Sept. 28, 1928
Mental Diagnosis: Subnormal in General Intelligence and Decidedly Psychopathic
Chronological Age: 23 Years (1928)
Mental Age: 5 Years, 6 Months
Intelligence Quotient: 34.

Physical Characteristics:

The prisoner was rather small in build, five feet, four inches in height, weighing 130 pounds. He had dark brown skin, brown eyes, and black curly hair. He was 23 years old, having been born in Wilson County, North Carolina, in November, 1905(?).

His mother states that when he was quite young he had three or more spasms. He was treated for syphilis when he was 19 years old.

Family History:

His paternal and maternal grandparents, all of whom are dead, were slaves. Little could be learned of them except that his paternal grandfather was insane at the time of the prisoner's birth.

His mother and father were born in a rural, undeveloped community. His mother is a very low mental type, while his father, of the "old darky" type, seems to be above the average in intelligence. A cousin on his mother's side was insane.

The prisoner was next to the oldest of ten children. Three of his brothers and sisters died in infancy. His parents could not remember the birth dates of any of their children. His mother, however, did remember that the prisoner "was born on the Monday before the fourth Sunday in November". She is certain of this "fact" because "her aunt and uncle came to see her on the fourth Sunday". One parent said that the prisoner was born in 1904, while the other is sure that the date was November, 1905.

Early Home Conditions:

During the prisoner's youth his father and mother, who were tenant farmers and share croppers, led a migratory existence, living three years in Nash County, two years in Wilson County, 11 years in Wayne County, and then returning to Wilson County where they lived for seven years. His father gave as reasons for these changes "that he wished to return home" and "he did not want to be forced into coöperative marketing", and again, "he wished to better conditions". While he was young the prisoner helped his father farm.

Education:

The prisoner attended the rural school in his community only one half term. He and a sister, who completed the third grade, were the only children in his family who attended school.

Occupations:

From early childhood, he worked as a farm hand, receiving for the last few years $1.00 a day and board.

For two years after his arrest for driving an automobile while under the influence of liquor, he was frequently away from home all night. In explanation of this the prisoner stated that he and his first cousin worked regularly at night for a white man whose home is located about four miles outside the town of Fremont in Wayne County and who, the prisoner claimed, was engaged in the manufacture of liquor. He said that over a period of one year he and his cousin had been assisting in the manufacture of this liquor, each receiving as his pay a gallon of liquor every time a "run" was made. The prisoner claimed that the liquor was manufactured near a spring in a swamp about 100 yards directly back of the white man's house, also that the liquor was "run off" on an average of twice a week. The chief market for its sale, he said, was Wilson, N. C.

Previous Arrests:

At the age of 18 he was arrested for driving an automobile while under the influence of liquor, was found guilty, and paid a fine of $15.00. He was arrested the second time in Fremont for being drunk and creating a disturbance, and was fined $15.00.

Marital Record:

The latter part of 1926 the prisoner married a woman who is totally illiterate and an exceptionally low mental type. She claims to have attended school for one term. One child was born to them. His wife states that many times the prisoner stayed away from home all night and often, when in high temper, had threatened to strike her, and that one day not long before his last arrest he did strike here.

At the time of his arrest for murder and rape, the prisoner, his wife and child lived with his parents in a four room frame dwelling. He and his wife worked for his parents. The home and its general surroundings presented a very disorderly appearance. The rooms were in a very untidy condition, and the two families (eight persons) occupied two bed rooms. About five white families and four Negro families lived in the immediate community. The Negroes said that "they did not know their white neighbors even by name", except one white family which employed many of the Negroes as farm hands.

Habits, Characteristics and Reputation:

During his childhood the prisoner was in the habit of giving way to a very high temper, and on one occasion he threw an ax at his mother

because "she laughed at him when he seemed disturbed because some children had teased him". The members of his family said that he had "racuous spells" and would go off into "tantrums" at times, but if ignored by the family he would soon quiet down. His leisure time was spent in "joy-riding" and in playing an old guitar.

Story of the Crime Charged:

The 15-year-old daughter of a tenant farmer in Great Swamp township, Wayne County, left her father's home soon after dark one evening in December, 1927, to go with a Negro woman to the latter's house to buy some home-made syrup. When she failed to return an hour later, her father set out to look for her, going first to the Negro woman's house where, he found, the girl had stayed only a few minutes. Returning for help, he renewed the search.

Soon the dead body of the girl was found a little way from the path about 45 yards from her father's house. The throat was slashed from ear to ear, one hand was cut to the bone, one wrist was slashed, and a great gash laid open one cheek. Her clothing had been partly torn off. An autopsy disclosed that she had given her life for her honor.

Examination of the ground showed that there had evidently been a terrific struggle between the girl who was rather large for her age, weighing about 150 pounds, and some man wearing heavy rubber boots. Apparently she had broken away and had run a little distance pursued by this man. Indications were that, overtaking her, the booted man had again attacked her and in the struggle which followed had cut her throat. Further search disclosed the fact that the boot-tracks came across a field to the path, and from the spot where the body lay led back across the field.

The officers found the prisoner in his house, apparently asleep. Boots which he owned and which were found in his house fitted exactly into the tracks across the field. These boots were bloody, as were also a pair of overalls found in his house, and a long, sharp knife found under the house. When first arrested, the prisoner explained the bloody knife by saying that "he had just killed and skinned a rabbit". Later, however, he confessed the crime.

Sensational Trial:

Justice, travelling hard on the heels of crime, placed the prisoner on trial for his life barely 60 hours after the body of the girl had been found. When he was first arrested, the Sheriff feared a lynching, and hurried the prisoner to the State Prison at Raleigh for safekeeping. The next morning the Judge directed that he be brought back to Goldsboro, and the trial began. There was every sign that trouble was brewing in the packed court room. The Judge suggested to the defense lawyers that they take the prisoner into the jury room and confer with him. Half an hour later the court was adjourned, and the crowd, if it had intended lynching the prisoner, had been outwitted, for the prisoner was nearing Raleigh when the court adjourned.

The following morning, which was Sunday, long before the hour set for the opening of court a crowd packed the court room and several hundred people waited silently outside. The court was soon thrown into pandemonium when an uncle of the murdered girl precipitated what seemed to be a well-planned attempt to take the prisoner from the court room and lynch him. Beside the uncle stood the girl's father and behind him a number of relatives and neighbors. With a cry of "Take him!" the uncle grabbed the prisoner by the throat, pulled him out of

his seat and tore his shirt from his body. Those apparently in collusion with him surged forward. The Sheriff threw himself between the prisoner and the leaders of the attempt at lynching, seized the prisoner, and fired his pistol twice into the ceiling of the court room. The would-be lynchers retreated. The Sheriff, still holding the pistol on the crowd and pushing the prisoner behind him, backed toward the door of the jury room. The court room was soon in an uproar, many spectators hurrying toward the exits.

The Judge directed that the prisoner be taken out until the crowd could be quieted. With pistol in hand he stated that he would shoot the next man who attempted to lay hands upon the prisoner. He ordered that the victim's uncle who had started the trouble be taken into custody. In half an hour troops marched into the court room. The Sheriff brought the prisoner in again and the Judge again warned the crowd that he would not tolerate any disorder.

The trial proceeded and the jury, after hearing evidence for three hours, retired and returned within 15 minutes with a verdict of "guilty as charged". They had been instructed by the Judge that one of two possible verdicts could be returned, guilty of first degree murder or innocent. The prisoner did not testify, but sat through the trial dumbly, without moving. He heard his sentence of death pronounced apparently without comprehension.

Upon pronouncement of the sentence the Sheriff led the prisoner down a lane of soldiers and out of the door which was immediately locked. Before the doors were unlocked and the crowd allowed to leave, the prisoner was on his way to Raleigh in an automobile.

When the prisoner departed for Raleigh under sentence of death it was just 66 hours after the girl had been killed. This was one of the rare times, if not the only time, that a court had ever sat through the Sabbath in North Carolina. It was also the first time that a Judge had ever handled a pistol on the bench.

He was tried a second time at Pittsboro on June 10, 1928. Two details of the National Guard were present. The testimony given at the first trial was repeated and the verdict and sentence were the same.

Appeal to Supreme Court:

Immediately following his sentence of death, the prisoner through his attorneys filed notice of appeal to the Supreme Court. He appealed in forma pauperis. The name of only one of the two attorneys appointed by the court to defend the prisoner was signed to the appeal. The other lawyer said that he believed that the prisoner got "a fair trial", and that, therefore, he could not continue his efforts to keep him from the electric chair. Full details of the extradordinary attempt to take the prisoner from the bar during the progress of his trial were contained in the appeal. The record proper contains only four exceptions, three being to testimony as to alleged confessions by the defendant and one to that portion of the Judge's charge in which he instructed that there was no evidence to justify a verdict of second degree murder or manslaughter, and that the jury confine their deliberations to the alternative of guilty of murder in the first degree or not guilty. However, the two principal exceptions taken are not to the record proper but are based upon the following memorandum by the Judge who presided:

"The prisoner was carried to the State Prison immediately after he was arrested and kept there until brought back for trial. Court was in session and a true bill was returned by the grand jury in a body. The court requested the older members of the Goldsboro Bar to confer with

him and the solicitor upon the question of an immediate trial. It was the consensus of opinion that an immediate trial should be had, that owing to the atrocity of the crime and the high feeling that would necessarily follow the news of the murder, it would be impossible to secure a jury in the county of Wayne at a subsequent term of court. A trial was agreed upon, Messrs. A and B were appointed by the court to defend the prisoner, who was without funds, and every opportunity was afforded them for the preparation of the defense. Mr. A visited the prisoner in jail, and after a conference with him stated to the court that the only defense they could possibly interpose would be that of mental irresponsibility. The court then asked Mr. A if he wanted any experts in mental diseases to examine the prisoner and Mr. A informed the court that he wanted the Superintendent of the Colored Insane Asylum at Goldsboro to examine the prisoner. The court then had the superintendent called over the phone and he very readily consented to visit the prisoner and examine him; and this was done. The superintendent was thereafter used as a State's witness, and his testimony appears in the case on appeal. There was no request for a continuance and no motion made at any time for a mistrial. The case on appeals shows each and every move made during the trial, except what now follows:

"While Deputy Sheriff C was on the witness stand and while the court room was crowded to its full capacity, the father of the deceased girl and her uncle, approached the prisoner and, before anyone was aware of his intentions, seized the prisoner by the collar of his coat and attempted to drag him from the bar and into the main body of the court room toward the front door. A number of persons in the audience shouted 'take him, take him!' and a part of the crowd attempted to assist the two brothers; but the greater part of the audience either remained standing or attempted to get out of the doors. The sheriff rushed into the crowd, seized the prisoner, wrested him away from the girl's uncle and took him into the jury room, immediately to the rear of the witness stand. He left the prisoner in the jury room with a deputy, returned to the court room, and as the audience was in somewhat of a turmoil, fired his pistol at the ceiling in order to quell the tumult. The court ordered the Sheriff and his deputies to stand by and prevent any further demonstration and stated to the audience that any further attempt upon the life of the prisoner would be met by force. The local military company had been directed by the Adjutant General to hold itself in readiness in case of an emergency, and it had been agreed that the company should assemble in the armory and be in full uniform by 9:30 o'clock on Sunday morning when the court assembled to continue the trial. The signal for help was to ring the courthouse bell, which was done; and in a few minutes soldiers came into the court room, some six or seven of them, and formed a cordon about the prisoner during the remainder of the trial. There was no further demonstration and the trial proceeded in an orderly manner. During the foregoing demonstration the jury sat in perfect order and did not appear to be at all disturbed; and the court charged them, as appears from the case, not to be influenced by what had occurred. This memorandum is made by the court of its own motion, for the information of the Supreme Court, as no exception was taken by the prisoner at the time".

The appeal was denied.

Statements of the Prisoner:

While awaiting the hearing of his appeal by the Supreme Court, the prisoner from his cell in death row at the State Prison made repeated

statements that he had been regularly employed by the father of the murdered girl to help him manufacture liquor; that he was paid a gallon of whiskey for each "run" and that he was drunk on the white man's liquor when he attacked his daughter. This statement was made in the presence of the Superintendent of the State Prison, a State welfare worker and three newspaper men.

Investigation of the prisoner's story resulted in partial corroboration and partial denial. The prisoner's father said that his son had told him that he had been working for the girl's father at his still, and that on several occasions the prisoner had brought liquor home, saying that it had just been made. The prisoner's wife said that he was often away from home at night, many times all night, and that she did not know where he went.

Following directions given by the prisoner, a trip was made from the home in which the father of the murdered girl lived at the time of the crime to the place where, according to the prisoner, the whiskey was made. The remains of fires were found near a spring, as the prisoner had described the place, and an open spot in the dense thicket bore signs of recent activity there. Nearby, partly hidden in the thick undergrowth, a copper still was found. The boiler had been cut with an ax in many places, and these cuts apparently had been made not long before the discovery of the still by the investigators.

Evidence against the prisoner's story came from the father of the murdered girl himself, who claimed that the still in question belonged to a man, D, who lived in the same house before he did. He further stated that the still had been abandoned before he went there to live two years previous.

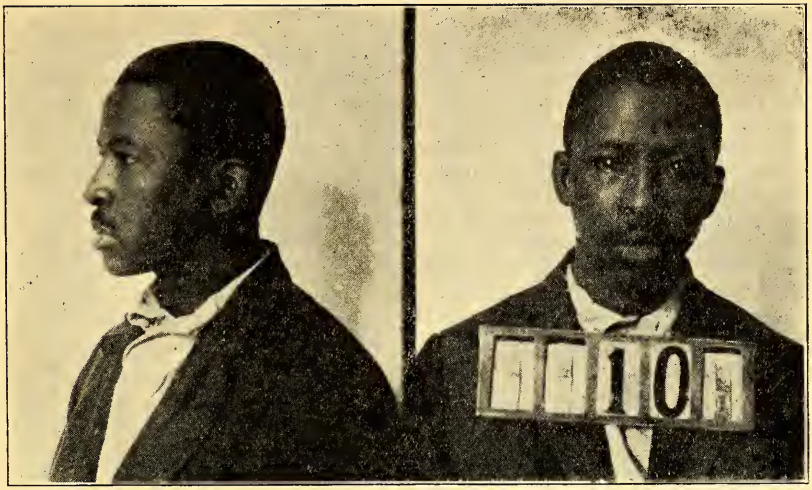
The records show a man, D, arrested for illicit distilling about four years prior to the finding of the still in question; and other information brings to light the fact that D has not lived in the county for almost four years.

The girl's father stated further that he not only had never made any whiskey, but also had never bought any. He denied the prisoner's statement in toto, and said that the only time the prisoner had worked for him was for half a day when he had hired him to do some plowing; that though he knew whiskey was being made in the community, he himself had never seen a still "rigged up". White people of the neighborhood and a deputy sheriff stated that the girl's father bore a very good reputation in the community.

Mental Condition:

Great difficulty was experienced in making a satisfactory diagnosis because the examiner is of the opinion that the prisoner was never of normal general intelligence, and thinks it doubtful whether there had not been some deterioration, thus making him lower than he was originally. His chronological age was 23 years (1928); his mental age, five years, six months; his basal age, three years, eight months; and his intelligence quotient, 34. In addition to his subnormality in general intelligence, he was decidedly psychopathic.

CASE S



Prisoner: Negro. b. Baltimore, Md., September 25, 1889
Charge: First Degree Burglary
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Chronological Age: 38 Years (1927)
Mental Age: 11 Years, 9 Months
Intelligence Quotient: 73.

Physical Characteristics:

The prisoner is five feet, seven inches in height, and weighs 135 pounds. He has coarse features, piercing eyes, dark brown skin and kinky hair and moustache. He reports an attack of typhoid fever. Otherwise, his health has been good. He is 38 years old (1927) having been born in Baltimore, Md., September 25, 1889.

Family History:

His maternal grandfather died in Baltimore of cancer in 1908. His maternal grandmother, who was born in California, also died in Baltimore in 1912. Her age and cause of death are unknown. No trace could be found of his paternal grandparents.

His mother was born in California and died in Baltimore in 1925 at the age of 76 years, cause of death unknown. She had two sisters and two brothers, all of whom are living, but no data about them can be secured.

The prisoner never knew his father.

He has one brother, 45 years old, and one sister, 47 years old, both of whom are living. One brother died in infancy.

Early Home Conditions:

The birth status of the prisoner could not be determined, but he is probably illegitimate. He was born in a two story, seven room brick dwelling which was occupied by six members of his family and for which they paid $23.00 a month rent.

Education:

Although he was 18 years old when he reached the fifth grade in school, his attitude toward school was good and he excelled in arithmetic, although he was very backward in spelling.

Occupations:

He was employed as fireman in a round house of the C. and O. Railroad in Baltimore where he worked for seven years, earning a salary of $5.20 a day. However, as he wanted to make more money he gave up this job and began working for the Chesapeake Coal Mining Company in Virginia. After working with this company for three years at a salary of from $6.00 to $9.00 a day, he grew "tired of ducking cold weather", and returned to the C. and O. Railroad, this time working for three years as fireman and receiving $5.20 a day. In 1920 he returned to Baltimore and opened the Star Pressing Club. Because of much traffic in liquor at this club, he said he arranged to have police protection for which he paid from $5.00 to $17.00 a week.

During one period of escape from prison he was engaged as a bootlegger in Cherrytown.

Previous Arrests:

In August, 1920, he was arrested for receiving stolen goods and was sentenced to five years in the Maryland State Prison. He escaped, and moved to Arlington, Va. Soon after his arrival in Arlington, he was arrested for burglary, and sentenced to 10 years in the Virginia State Prison, but was transferred to the Castlewood Camp in Wise County, Virginia. Near the end of 1924, he again escaped and went to Charlotte, N. C., by way of Spartanburg, S. C. His record shows three or four other convictions, one for housebreaking, the others for stealing. No violence was offered in any.

Marital Record:

He had been promiscuous in his relations with women and had lived with one before his marriage to a woman of Waxhaw in Cherryville in 1924.

At the time of his last conviction for first degree burglary, he was living with his wife in a rented six room, two story frame dwelling in Charlotte. A stepdaughter, aged 20, and a stepson, aged four, are now living with their mother in Charlotte.

Habits, Characteristics and Reputation:

He was addicted to the use of alcohol and tobacco. Although he was a member of the Lutheran Church in Baltimore, he attended infrequently. At the time of his conviction he had no church affiliation.

Story of the Crime Charged:

The prisoner was discovered at night in the home of a physician in Gastonia, N. C., while he was in the act of opening some drawers. He was in a downstairs room which was not a bed room and was not occupied as sleeping quarters by any of the people in the house. A pocket-book and some clothing were found scattered around on the floor. The doctor, a man of tremendous physique, weighing more than 200 pounds, surprised the prisoner who is small and weighs about 135 pounds. The prisoner who attempted to escape through a window, but was caught, and thrown on the floor where he still struggled in his attempt to escape. When brought to the police station he was unconscious as a result of the doctor having pounded his head on the floor.

Evidence showed that the prisoner was unarmed and had been drinking heavily. He had a flashlight on his person, but nothing else of

value. When questioned at the jail, he stated that he did not remember having gone into the house, nor anything that happened thereafter until he regained consciousness in his cell. He stated further that he was so drunk that he did not know what he was doing.

Incidents of the Trial:

At the time of the trial, the prisoner's attorneys offered to submit to second degree burglary which the acting Solicitor accepted. However, as the Solicitor was sick and the doctor whose house had been entered protested, the submission was not tendered.

The prisoner was convicted of first degree burglary and was sentenced to death at the April, 1927, term of Superior Court of Gaston County.

After the trial, his attorneys went in behalf of their client to the presiding Judge, who told them that he did not feel that there was such serious aggravation that the prisoner merited the death sentence. However, he said that as the jury had brought in a verdict of guilty of first degree burglary, under the law he would be compelled to pass the death sentence, but he would request that the Governor commute the sentence to life imprisonment, and he felt sure that the Governor would assist the court in making this change.

Commutation of Sentence:

Immediately after the prisoner's conviction and sentence, a petition requesting executive clemency was received by the Governor. This petition was signed by more than 300 representative white citizens of Gaston County, including all 12 jurors who tried the case. The petition requested that the sentence be commuted from death to life imprisonment "by reason of the fact that the evidence disclosed and the circumstances surrounding the commission of the crime indicated that the offense is not of sufficient aggravation to warrant the death penalty".

In addition to the petition, letters in behalf of the prisoner, recommending commutation of sentence were received from the trial Judge, the Solicitor, a large number of the local bar, many prominent white and Negro ministers, the Commander of the Gaston Post of the American Legion, the Sheriff, Clerk of the Superior Court, Clerk of the Board of County Commissioners, Register of Deeds, and Superintendent of Welfare, all Gaston County officials. The substance of these letters was "that the facts and circumstances in this case did not merit the infliction of the death penalty".

The Recorder of Gaston County who found probable cause in this case states:

"My feeling at the time, after hearing all of the evidence, was that the offense had been clearly technically committed. I then felt and now feel upon the evidence that the Negro entered to commit larceny, certainly without intent at the time of entering to commit anything more heinous. He was unarmed, small of stature and made every effort to effect an escape without the offer of violence. The appeal for consideration, be it to their great credit, comes from the ruling class in behalf of a strange Negro in whom they absolutely have no other interest than to see justice meted out and they desire to encourage a righteous and just fulfillment of the spirit of the law. It would be easy from certain standpoints to pass the matter up and let the case take the course leading to the electric chair. Likely it would soon be forgotten and the matter ended from some viewpoints, but the matter of community conscience would remain for a long while uneasy with the feeling that a wrong had been worked by an excessive and unnecessary demand of the law".

In a letter addressed to the Pardon Commissioner under date of May 23, 1927, the Governor said, "Generally speaking, I am not in favor of inflicting the death penalty for burglary unless the facts disclose a very unusual case".

The only opposition to executive clemency came in a letter from the doctor into whose house the prisoner had entered. He wrote:

"I take it that intent of the law was and is to make our homes safe for our wives and children in our absence as well as for our own protection when at home. If this law does not fit his crime, then I feel sure that it should never have been considered and should be taken from the statutes".

The following statement from a letter to the Governor from a prominent attorney of Gastonia is interesting for comparative purposes:

"At the term of court following that at which the prisoner was convicted, I represented a white man who was charged with the same offense and who probably was even more guilty in that he entered a room in which a little white girl was sleeping and placed his hands upon her person, but I succeeded in keeping the matter out of the newspapers, plead guilty of second degree, and got him off with a two year sentence. Consequently, I feel that just because it was a prominent citizen's home which was entered, there should not be such marked difference in the punishment. But the responsibility for that is on the court—not you".

The prisoner's attorneys gave notice of appeal to the Supreme Court, but failed to prosecute it, although he was allowed to appeal in forma pauperis. Due to his failure to prosecute the appeal, motion of the Attorney General to docket and dismiss was allowed. January 6, 1928, was then set as a new date for the prisoner's electrocution. In order to give the Pardon Commissioner more time a investigate the case, the Governor granted a reprieve of one day, which set January 27 as the date of electrocution. On January 23, 1928, the Governor commuted the prisoner's sentence from death to life imprisonment.

Mental Condition:

The prisoner's chronological age is 38 years (1927). His mental age is 11 years, nine months; his basal age is 9 years; and his intelligence quotient 73. The range of his successes in the tests was between the nine and the 14 year groups.

CASE T

Prisoner: Negro. b. Franklin County, North Carolina, 1899
Charge: Rape
Sentence: Death
Sentence Commuted to Life Imprisonment
Present Location: Criminal Department, State Hospital for Negro Insane at Goldsboro
Mental Diagnosis: High Grade Imbecile and Epileptic
Chronological Age: 18 Years
Mental Age: 6 Years, 4 Months
Intelligence Quotient: 40.

Physical Characteristics:

The prisoner is five feet, four inches in height, and weighs 130 pounds. He has dark brown skin, a receding forehead, flat nose, bad teeth and high palate. His Wassermann test is negative and he has no history of syphilis. He complains of a general feeling of lassitude. He is 18 years old, having been born in Franklin County, North Carolina, in 1899.

He was apparently normal at birth, although a very large child. Some time between the age of two and three years he had his first spasm which apparently was not preceded by any illness. According to all evidence, the convulsions occurred at very frequent intervals until he was about five or six years old—sometimes as often as two or three times a week. From the time he was six years old until within the last year or two he had, on an average, two or three spasms a month. For the last year they have occurred about once a month, sometime skipping a month or two. Recently they have grown more severe and of longer duration. There seems a marked tendency for the convulsions to occur at night, usually starting on the left side.

Family History:

His father is dead—cause of death unknown. He seemed, however, to be normal. His mother is living and appears to be below normal

mentally, is unreliable in her statements and excitable. Although capable of doing routine farm work, she is considered by the community to be "crazy". She has one sister whose three children are epileptics. One of these is of a very low grade of mentality; the other two are able to get along fairly well on a low level.

The prisoner has three older brothers living and three older sisters living and married. Seven younger brothers died in infancy. One older sister died after she was grown.

It was very difficult to get a history of this family or of the prisoner because nothing like a clear story could be obtained from the mother and very little reliance could be placed on what she said. Such facts however, as were obtained were corroborated by the testimony of two or three other people.

Education:

The prisoner was sent to school for various lengths of time over a period of three or four years, but he made no progress in his studies. He can read and write only a very little.

Occupations:

He was capable of doing only routine farm labor, and then under supervision, as he had a tendency to forget what he was doing and wander away whenever a definite task was assigned him. Three or four years ago he wandered away from home and was lost for two or three days.

Marital Record:

The prisoner is unmarried. He says that he has had sex experiences since he was a small boy, and does not see anything wrong about it.

Habits, Characteristics and Reputation:

He claims that he never used tobacco in any form, and that he never tasted whiskey or other intoxicating liquors. He says that he joined the Baptist Church when he was 11 years old because his people wished him to join. Before the crime for which he was convicted he had no criminal record.

Since he entered the State Hospital for the Negro Insane, July 15, 1927, he seems to be happy-go-lucky and lazy, with no idea of time —month, season or year, nor of how long he has been there. He helps a little about the wards, but the attendants have to keep behind him in order to get him to do anything like sweeping or making beds. He has rather a good disposition and seems to have no difficulties with the other patients. Since his commitment no friends or relatives have visited him at the hospital. He does not seem to care that no one comes to see him or writes to him, and apparently he does not realize what a life sentence means.

Story of the Crime Charged:

Evidence presented at the trial was to the effect that the prisoner committed the crime of rape on a little white girl three and a half years old. The prisoner says that the child used to come with her brother to his house to play with his younger brothers and sister, and that on some of these visits the child would follow him around, and he would stop and play with her.

One day while they were a little way from the house in a small pine thicket, the prisoner attempted to assault the child. Returning home, she told enough to cause his arrest. In speaking of the crime, the prisoner does not seem to think that he did anything especially wrong.

During the trial evidence of the prisoner's mental weakness, epilepsy and probable insanity was presented. However, the jury found that he had mind enough to be capable of committing a crime; that is, mind enough to know right from wrong. He was convicted of rape at the May, 1927, term of Superior Court of Franklin County and was sentenced to death by electrocution.

Because of his observation of the prisoner during the trial, the Judge recommended that he be placed under observation by those qualified to pass on his mental status.

Commutation of Sentence:

Immediately after his conviction numerous petitions signed by representative citizens, white and Negro, in Franklin County were presented to the Governor, asking executive clemency because of the prisoner's apparently low mentality. Convinced by evidence presented by experts and medical authorities that the prisoner had the mind of a six-year-old child, the Commissioner of Pardons recommended commutation of the death sentence.

In commuting his sentence, the Governor issued the following statement:

"Upon investigation by the Commissioner of Pardons I am advised that the following facts exist:

"The prisoner is a colored boy of the age of eighteen or nineteen years. That he has no previous criminal record. Upon examination by three reputable physicians, such examination having been made at different times, and the examination of these physicians dating over a period of about three weeks, by practicing physicians who are non-residents of Franklin County and who have no personal interest in the case, a report has been made by each physician that the prisoner is feebleminded and is similar in mental development to a normal child of the age of six years.

"The prisoner's past life history shows that the boy from birth has displayed a low order of mentality, that he has been subject to epileptic fits over a period of years. And affidavits filed by eight reputable white people who live near the same farm on which the Negro prisoner was working set forth the fact that the prisoner has been subject to epileptic fits and has always been considered and adjudged by all who knew him as a boy of unsound mind and incapable of knowing right from wrong.

"The Commissioner of Pardons obtained the examination by these physicians after having been requested to examine the Negro's mentality by the trial Judge, who states as follows, 'It is a case, which in my opinion, should receive consideration and I therefore recommend that this man be placed under observation by those in position and qualified to judge, so that a full and correct estimate of his mental capacity may be had and laid before you and the Governor'.

"In addition to the request of the trial Judge, the nature of the crime committed by this prisoner is such that it would indicate mental deficiency and a further examination was made by Dr. A of the State Hospital for the Insane at Raleigh, N. C.

"Dr. A gave the prisoner a very careful mental and physical examination and reports that in his opinion the prisoner is of a subnormal type and a high grade imbecile and one whose mind has developed equal to that of a normal six year old child. Dr. A further reports that in his opinion the prisoner is incapable of knowing right from wrong and recommends that the prisoner be commuted to life imprisonment and

committed to the Criminal Insane Department of the State Hospital for the Insane for the Colored at Goldsboro, N. C.

"In view of the report filed by reputable physicians, who have made a careful examination of the mental condition of this prisoner, and acting upon the opinion of not only men qualified to understand the mental condition of this prisoner by reason of their medical training but also upon the affidavits by neighbors who have had the opportunity of observing the prisoner from childhood, and mindful of the fact that a large group of Franklin County citizens have petitioned that by reason of the low mental condition of this prisoner he be commuted to life imprisonment, and believing that the prisoner was incapable of knowing right from wrong within the meaning of the law at the time the crime was committed, and that the prisoner is an imbecile, I do therefore commute the prisoner from the sentence of death to life imprisonment, with the recommendation that the prisoner be examined for the purpose of committing him to the Criminal Insane Department of the State Hospital for the Colored at Goldsboro, N. C."

Mental Condition:

The prisoner is a high grade imbecile. His chronological age is 18 years; his mental age, six years and four months; his basal age, five years; and his intelligence quotient 40.

CASE U

Prisoner: Negro. b. Halifax County, North Carolina, 1902(?)
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Present Location: Criminal Department, State Hospital for Negro Insane, Goldsboro, N. C.
Mental Diagnosis: Feebleminded with Psychopathic Tendencies
Chronological Age: 25 Years (1927) (?)
Basal Age: 2 Years
Intelligence Quotient: 16.

Physical Characteristics:

The prisoner is five feet, eight inches in height, and weighs 165 pounds. He has light brown skin, good teeth, straight hair and blue eyes. Examination showed him to be in good physical condition. Wassermann test negative. He is about 25 years old, having been born in Halifax County, North Carolina, in 1902(?).

He had the usual diseases of childhood, was sick a great deal when a child, and after growing up had several attacks of what was supposed to be malaria—a fever of some kind.

He is reported to have had some kind of fits at intervals, and usually at night, since early childhood. After these he would be quite stupid in the morning and complain of being sore in his limbs and of having a headache. His tongue and sometimes his lips would show signs of having been injured. These seizures have continued until the present time.

Family History:

His father, who is living, has been a heavy drinker, and is in poor health, suffering from chronic heart disease. His mother also is living and in poor health, the character of her illness not determined.

The prisoner is a member of a family of nine children, four boys and five girls. Three younger brothers live at home and help the father with his farm. The prisoner's three older sisters are married and seem to be in good health. Two younger sisters died in infancy.

Education:

The prisoner attended a rural school rather irregularly during several winters. Because of his mental deficiency and also on account of his sickness and work at home he was greatly retarded.

Occupations:

He worked on his father's farm until he was quite a big boy, and then worked for the neighbors. After he was of age, he drifted about, working sometimes as a farm hand, and at other times at odd jobs. He was industrious by spells, but sometimes very indolent and shiftless.

Marital Record:

He married when he was about 20 years old. His wife gave birth to four children, two of whom died when they were a few months old.

Habits, Characteristics and Reputation:

He habitually associated with bad company and drank liquor when he could get it. When he was among good associates and away from liquor he was considered fairly industrious.

Story of the Crime Charged:

On July 26, 1926, at eight or half-past eight o'clock in the evening, A, a jitney driver in the town of Hollister, Halifax County, was employed to make a trip down into Nash County where the prisoner lived. He had in his car B, C, and the prisoner. Soon after arriving at the prisoner's home, the driver of the car, A, was shot twice and almost instantly killed. The State contended that the deceased was shot and killed by the prisoner. On the other hand, the defense contended that C did the shooting, while the prisoner was in the house and away from the scene of the homicide.

It was in the evidence that the deceased was shot with a gun belonging to the prisoner; that the car with A's body in it was driven to a bridge some distance away, where the bloody foot-mat of the car was thrown into the creek; that the car was driven from there to another creek where A's body was thrown into the water; that a watch taken from the prisoner was A's watch; and that when A's body was found his watch chain was in the button-hole of his shirt; and that a knife taken from the prisoner was similar to one owned by A. The evidence further disclosed the fact that early in the morning after the night of the homicide the prisoner came to the house of D, driving A's automobile, and wanted to borrow some license plates. There was other evidence tending to show the prisoner's guilt.

Testifying in his own behalf, the prisoner said that he was invited by B and C to ride with them in A's car, as they were going down into Nash County, by the prisoner's home. This he consented to do and upon arriving at his house, he said, they all stopped for water. Taking advantage of the delay, the prisoner went into the house to get supper. Soon after he began eating, C came to the door and wanted to borrow a gun, saying that he (C), B and A were going down the road to get some whiskey and that they might need the gun before they got back. According to the prisoner's testimony, C took the gun and went out to the car. In a very short time, the prisoner said, he heard two shots. He ran to the door and saw C with the gun. C told the prisoner that he shot A because he would not carry him and B to get the whiskey.

The prisoner further testified that after the killing, he was forced by C, under threats of death, to get in the car and go with them; that they finally let him out of the car near Hollister after repeatedly threatening to kill him if he dared tell what had happened.

The jury rejected this version of the crime. In corroboration of the State's evidence and in support of its theory of the case, the prosecution undertook to show that the deceased was employed by the prisoner to make the trip in question, and not by B and C, as the defendant contended.

The prisoner was convicted of first degree murder at the October, 1924, term of Superior Court of Nash County and was sentenced to death.

Commutation of Sentence:

After being committed to the State Prison, the prisoner showed signs of mental derangement, and his condition was called to the attention of the Governor. He was then placed under observation, and a very careful examination was made into his mental condition by two competent physicians. These physicians and other persons who had occasion to observe the prisoner advised the Governor that there was no question that he was insane, and had been for several months. The Governor, however, hesitated to commute his sentence to life imprisonment and reprieved him four times in order to satisfy himself fully as to whether or not the prisoner was actually insane or merely feigning insanity. The Commissioner of Pardons gave the case his most careful consideration and personal attention by visiting the prisoner and obtaining data concerning him; following which the Commissioner advised the Governor that in his opinion, from all facts obtainable, there could be no question that the prisoner was actually insane.

On September 5, 1925, the Governor issued the following statement:

"It is with reluctance that I interfere with the sentence of the prisoner, who was fairly convicted in the courts of so horrible a crime; however, it seems to me to be repugnant to the tenets of society and civilization to cause the death of a man who is insane, even though the offence committed by him may be an aggravated one. While no punishment can be too severe for this prisoner, if sane, the dictates of humanity force me to the conclusion that, on account of his mental condition, there is no other fair and reasonable course to follow, other than to commute his sentence to life imprisonment and I have, therefore, relieved the prisoner of the penalty of death, solely and entirely because of his mental status".

Mental Condition:

The prisoner is feebleminded with psychopathic tendencies. His chronological age is approximately 25 years; his basal age is two years; and his intelligence quotient is 16.

He gave a very unsatisfactory examination due to the circumstances surrounding his commitment. The examiner has positive evidence that the prisoner was pretending to be of lower grade than the examination disclosed. In test two in the three year group the prisoner called a key a spoon, and a pencil a writing piece, and the examiner was unable to secure a more definite answer. Approximately 20 minutes later, when asked to hand the key to the examiner, the prisoner reached immediately for the key, and the pencil was treated in the same way. Other proof of similar nature was obtained.

CASE V

Prisoner: Negro. b. Cumberland County, N. C., June 1, 1887
Charge: First Degree Murder
Sentence: Death
Electrocuted December 9, 1927
Mental Diagnosis: Definitely Feebleminded.

Physical Characteristics:

The prisoner was a strapping Negro who weighed more than 200 pounds and was six feet, two inches in height. He had dark brown skin, brown eyes, and kinky hair. He was 40 years old, having been born in Cumberland County, North Carolina, on June 1, 1887.

He had never been ill except for "a few pains". Examination showed him to be in splendid physical condition.

Family History:

For several generations there had been more or less insanity in the prisoner's family. His father and mother were legally married, and he had nine brothers and sisters.

Early Home Conditions:

Next to the oldest child in his family, the prisoner was born in a one-room log cabin located in a rural section of Cumberland County. In his home the sleeping conditions were very poor, only one bed and two pallets were used by the 12 occupants of this hut.

Education:

He never attended school.

Occupations:

At an early age he began to help in the farm activities of his community. He left home for the first time when he was 16 years old, going then to Hoke County, where he secured employment as a farm hand. He did work of this kind uninterruptedly until his last arrest. For the last two or three years before his conviction he received 50 per

cent annually of the products of a cotton farm of which the yearly average was 16 to 18 bales. He had been connected with some liquor deals to which may be traced the cause of his last trouble.

Previous Arrest:

Previous to his conviction for murder he had trouble with a family of Negroes, one of whom was later a witness for the State at his murder trial. The cause of this trouble was that one of the boys of this family carried the prisoner's daughter away from home, took her money and gave her cocaine, threatening to kill her father if she mentioned it to him. Soon after the girl returned home, there was a shooting affair between the boy's family and the prisoner in which the latter was assaulted with a knife and pistol by one of the boys and his mother. The prisoner shot the boy, and was indicted by the Hoke County Grand Jury, but was never brought to trial. The white people of the community were so incensed against the boy and his family that it was openly said in the town of Raeford that a mob should form and drive them out of the county.

Marital Record:

At the age of 21 the prisoner married. Five children were born of this union. The age of the youngest is five years, and the oldest, a girl, is 20 years old. For two or three years before his conviction the prisoner, his wife and children had been living in a two room frame dwelling which he rented.

Habits, Characteristics and Reputation:

The prisoner smoked and used whiskey to excess. When he was at leisure his chief activity was fishing. As far as could be learned, he got on very well with his parents. He had always borne a good reputation until June, 1927, when he shot the Negro boy. He was a typical "white man's nigger", would accommodate white people in any way he could, and was very popular with them until he killed the white man for whose murder he was electrocuted.

He was extremely egotistic, and was quick to resent insult or injustice, although he did not harbor malice.

Story of the Crime Charged:

A, the white man with whose murder the prisoner was charged, lived in Raeford, N. C., and had a farm in the county six or seven miles away. The homicide occurred at this farm about two o'clock in the afternoon on August 12, 1927.

B, a brother of the deceased, had a grist mill which was not far from the prisoner's home. Early in the morning of the day of the homicide the prisoner saw the deceased at this mill and went from the mill to C's, thence to D's in Cumberland County, and then back to C's to get his wife who had been there since Thursday. In the meantime the deceased had returned to his farm.

The prisoner and his wife on their return from C's place were travelling in a two-seated open car. On the way home they went by the farm where A, the deceased, and E were doing some work about the barn. There the roads crossed, and the prisoner turned from the Puppy Creek Road into the Mail Road, stopped his car and called to the deceased.

As to the subsequent events, there is sharp conflict in the evidence. E, one of the Negro boys who had attacked the prisoner in the previous shooting affray and who lived about 100 yards away, testified for the State as follows:

"About two o'clock I was in the porch and I saw the car drive up there and turn off right there and stop. I looked down the road and I saw Mr. A come up to the car. He came up there, and he put his foot upon the running board, and he talked to who was in there, but, mind you, I didn't know it was the prisoner. He talked a few minutes, about as long as I have been sitting here, I guess, and he took his foot off the running board, and he sort of turned away—he was this way (illustrating), and he turned away, and I think they were done talking, and by this time the shooting took place, and Mr. A turned, stumbled over that way, and he went over that way, and the car pulled out, and he went back there a few steps and he fell. I know he just fell—about the length of himself he fell—I think that. I heard two shots. When the shots were fired Mr. A wasn't anywhere from the automobile. He had just passed the hind end of the car, going that way. The car was going that way, and he hadn't turned far enough from the car to be anyways from it. He hadn't went nowhere from it, he didn't have time to go nowhere from it. Mr. A went back that way as far as he did go. I don't know how he got down there, whether he just fell that far, or whether he walked a little bit before he fell.

"After a short while I went up there to see where he was. He had disappeared out of my sight, and I went up there to see what, if I could discover where he was, and I seen him prostrated in the road there. He was just lying there, and I couldn't tell what condition he was in because I didn't have any reason to trouble unless someone with authority, like a doctor, to put hands to him or nothing at all. I discovered, though, that he was dead. There wasn't any fussing or loud talking or anything like that. There was no fight of any kind. This was an open car, had a top on it, but I don't recall whether it was a one or two-seated car. Just whenever the pistol shot then the automobile pulled out. The engine of that car stopped running when he stopped there".

Throughout his testimony the prisoner frequently referred to the deceased as "Mr. Paul", A's first name, a custom common among Negroes when addressing whites. This is important in view of what the prisoner alleged to have been the cause of the murder. He testified in part as follows:

"I knew Mr. Paul all my life. I know all of the family. I worked with his father. I had known Mr. Paul 27 or 28 years. Mr. Paul A and me, nor any of his family, ever had any trouble. I never had any ill feeling towards him or any of his family. I saw Mr. Paul A on August 12. I first saw him on that day at Mr. B's mill, early that morning.

"I left Mr. C's to go home, and going from Mr. C's to my home I must travel the Puppy Creek Road to the crossing of the Mail Road at Mr. A's place, turn in at the Mail Road to go to my house. I did not know that Mr. Paul A was at the farm until I got there. I did not expect to see him at all. When I saw Mr. Paul at the barn, I stopped to see if I could get some work from him and see if he wanted some corn. I had sold Mr. B 16 or 17 bushels of corn and I wanted to sell some more corn.

"When I saw Mr. Paul at the barn I stopped and called, 'Hey, Mr. Paul!' and he came to the car immediately. He walked up on the left side of the car where I was sitting. My wife had a bag in the car, and when he came up to the car he asked what was in that bag. My wife replied, 'I have been off working'. I had a walking stick in the car between the back of the front seat and the coat rack. Mr. Paul grabbed the stick and said, 'I will tearn you how to call me "Paul"!' Mr.

Paul took the stick and began hitting me. He struck me side of the face and on the back of the head, and I grabbed the pistol and shot him. The reason I had the stick, I had hurt my foot and had been using the stick for a walking stick. (The stick was produced in court and was identified by the prisoner as the one Mr. A had hit him with. It was of seasoned dogwood, about the usual size of a walking stick). It was not broken before Mr. Paul struck me with it. He struck me right there, on that bone (indicating cheek bone), and made that big scar, and he hit my head up there. I shot him while he was beating me. I wouldn't have done it for nothing. I was just knocked addled".

The evidence is voluminous, but this is sufficient to give a background. The prisoner was convicted of murder in the first degree.

Incidents of the Trial:

After the killing, the prisoner had eluded a mob for a week before giving himself up to the Sheriff of Cumberland County. He denied that he had sought to escape the authorities, but said he had run from mob violence. After A was killed, very strong race feeling was aroused. The attorneys for the prisoner stated that "the defendant in this case was forced into the trial under conditions where it was impossible for any judge, however honest and sincere he might be, to render him a fair and impartial trial".

The deceased had had a reputation for being intolerant and tyrannical toward Negroes, and a large number of intelligent, unbiased white people in the community did not believe that the prisoner went to A's farm for the purpose of creating any trouble whatever. There was a profound undercurrent of sentiment in behalf of the prisoner among the best white people of Hoke County, but because of the many influences against him these people who were favorable to him were afraid to make themselves known and to express their honest convictions.

Petition for Clemency and Reprieve:

A petition for executive clemency signed by a large number of prominent white citizens of Hoke County was presented to the Governor after the prisoner's conviction. In the meantime, the prisoner's appeal to the Supreme Court was heard, his case reviewed, but the court could find no error, and declined to order a new trial.

Immediately following the handing down of the opinion by the Supreme Court, the Governor granted a reprieve of 30 days to permit the Pardon Commissioner to investigate the case more fully. The Commissioner's investigation disclosed nothing that the Governor regarded as justifying him in setting aside the verdict of the jury as the prisoner admitted the killing. The only question was one of first or second degree murder.

In denying the prisoner's application for commutation of sentence, the Governor issued the following statement:

"The prisoner, through his attorneys, having made application that the sentence of the prisoner be commuted from death to life imprisonment, I find the following to be the facts:

"After two hearings at which time witnesses were examined, and after reviewing the evidence and thoroughly discussing the case with the Commissioner of Pardons, who made a personal investigation, I find that the prisoner was ably represented by experienced attorneys at the time of trial in the Superior Court and that through his attorneys he appealed to the Supreme Court and that the judgment of the Superior Court was affirmed. I further find from the trial Judge, that the prisoner was given a fair trial before a jury from Scotland County com-

posed of men who were representative citizens of Scotland County, some of whom are personally known to me as men who would always be conscientious and fair in rendering a verdict. After carefully reviewing all of the facts and evidence surrounding the trial of the case I find that the prisoner was given a fair trial in the Superior Court and I further find that no new evidence has been presented to me which if it had been presented at the time of the trial would have changed the verdict of the jury. In view of the fact that it is within the province of the jury and the courts to hear and pass on the law and the facts in a case, and that after a most thorough investigation and two hearings of the evidence offered by the attorneys for the defendant I do not find any new evidence which has developed since the trial that materially differs from that offered in the court, I feel that it becomes my official duty to uphold the verdict of the jury and the due process of the law. For that reason the application is declined".

The Pardon Commissioner broke the news to the doomed man in his cell on death row. When the prisoner heard that he must die, he took it hard but did not attempt to argue as most condemned men do. He said bitterly, "There is no chance for a nigger. If it'd been a white man they wouldn't done anything to him. . . . If it'd been a white man killed a nigger . . . . ".

CASE W

Prisoner: Negro. b. Union County, North Carolina, May 2, 1893
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded, High Grade Moron
Chronological Age: 35 Years (1928)
Mental Age: 9 Years, 11 Months
Intelligence Quotient: 62

Physical Characteristics:

The prisoner is five feet, 10 and three-quarter inches in height and weighs 154 pounds. He has a drooping head; thick, swarthy skin; and thick lips. He is 35 years old, having been born in Union County, North Carolina, on May 2, 1893.

Family History:

His paternal grandfather and grandmother are dead. She died from cancer. Both of his maternal grandparents, who were slaves, are also dead, and no information could be obtained as to their history.

His father died of heart trouble at the age of 70 years. His mother, 60 years old, is living, and seems to be in good health.

The prisoner had nine sisters and three brothers. One child died in infancy. His oldest sister died of heart disease when she was 37 years old; another sister was murdered at the age of 35 by her husband who claimed that she did not care properly for their children. The prisoner's mother, however, states that the cause of the murder was that the husband, who was mentally unbalanced, suspected his wife of putting poison in his food. A third sister, who is employed in domestic service in Petersburg, Va., is the only one of the adult children of this family who seems to be of good character. An unmarried sister, 20 years old, has a reputation for immorality. The whereabouts of the prisoner's brothers is unknown.

Early Home Conditions:

A legitimate son of his father and mother, the prisoner was born in a rural section of Union County, North Carolina, where he made his home until he was convicted of murder. His family lived in a two story frame dwelling of six rooms, for which they paid a monthly rent of $15.00. On account of his low mentality, the prisoner is able to tell very little of his early life.

Education:

He attended the country school in his community, and completed the fourth grade. Only two of his brothers and sisters reached the seventh grade in school. All the others stopped in the third or fourth grade.

Occupations:

The prisoner's chief occupation was farming, and most of his work was done for white and colored landlords. He was drafted for service overseas in the American Expeditionary Force. When he returned from France he did not resume farming, but secured work with the Seaboard Railroad as a section hand.

Previous Arrest:

When he was 21 years old, the prisoner was arrested for selling half a pint of whiskey. This was probably not an isolated case. He was released under bond, and before he was brought to trial he was drafted.

Marital Record:

After his discharge from the Army, he lived for four years with a woman 24 years old. Later he began to associate with another woman whom he married. They had two children, a girl four years old, and a boy who died of croup when he was a year old.

Some time prior to his arrest for murder, the prisoner and his wife separated. She took the children and went to the home of her mother in Monroe, N. C. Soon she secured work as a domestic servant in this town and left both children at home with her mother so that she could go out to work. After their separation, the prisoner and his wife did not see each other nor communicate in any way.

Habits, Characteristics and Reputation:

For many years the prisoner had a reputation of handling liquor and fighting.

Story of the Crime Charged

On the Tuesday prior to the Friday, March 13, 1925, the prisoner went to the home of his wife's mother for the purpose of taking his infant child to the doctor to have him examined. The grandmother refused to permit him to take the child until her daughter consented to it. The prisoner left the house and came back again on Wednesday when the grandmother stated that her daughter said he could take the child to the doctor. The grandmother, however, said that all the child's clothes were dirty, and she did not want the prisoner to take the baby until she had a chance to wash his clothes, so that the father could take the clothes along with the child. She said that she could not have the child ready until Sunday.

The prisoner left and returned again on Thursday, when the same conversation took place between him and the grandmother relative to his taking the child. On each day that he came to the house, Tuesday, Wednesday and Thursday, he came about 12 o'clock. On Friday he came again and made the same demands in regard to the child. The grand-

mother told him to go and see her daughter, telling him where she could be found.

He left immediately and walked directly to his wife's place of employment, reaching there before she left her work. He waited until she came out and walked with her in the direction of her mother's house, talking pleasantly about getting a house in which they could go to housekeeping. Here the story becomes rather confused because of the conflicting testimony of the persons who were present. A family quarrel ensued, ending in the prisoner cutting the throat of his wife, severing the jugular vein to the bone. She soon died from loss of blood. He then cut his mother-in-law on her head, and stabbed a brother-in-law, 18 years old. Immediately after these attacks, he fled, but was soon captured near the South Carolina line. At the trial the prisoner claimed that he used the knife on his wife, mother-in-law, and brother-in-law in self-defense, stating that they had "jumped on him" and had attempted to beat him.

At the August, 1925, term of Superior Court of Union County he was tried for first degree murder, convicted and sentenced to death by electrocution.

Commutation of Sentence:

Soon after the prisoner's conviction and sentence to death in the electric chair, numerous petitions in his behalf were presented to the Governor, the petitioners raising the question as to whether the element of premeditation was sufficient to justify his electrocution for first degree murder. The Commissioner of Pardons made a personal visit to Union County for the purpose of ascertaining pertinent facts, and especially in order to furnish the Governor with information on which to enable him to pass upon the question of commutation of the prisoner's death sentence to one of life imprisonment.

The Commissioner of Pardons went very thoroughly over the scene of the homicide, that is, the house where the prisoner cut his wife's throat and injured two other members of her family; visited the locality between the home of the wife's father, where she was staying, and the home of the white people a mile away, where she had been at work. It appears that the prisoner went to the place where his wife was employed, between sundown and dark, and started back to her mother's, passing through a dense body of woods to a point approximately 50 yards from the edge of the woods next to the home of her mother, where the pair were met by the mother-in-law.

There was conflicting evidence as to whether the mother-in-law met the pair before or after they entered the woods. The mother-in-law informed the Commissioner specifically and definitely that she did not meet them until after they had crossed the ravine coming towards her house to a point approximately 60 yards from the edge of the wood. The mother-in-law also stated to the Commissioner that the couple were apparently in a friendly mood when she met them and continued so after entering her home up to the time of the homicide.

On November 6, 1925, the Governor issued the following statement:

"The Commissioner of Pardons and I were both convinced that the murder was not one of first degree, but one of second degree, taking the view that if there was premeditation or desire to kill the wife it arose by reason of the Sheriff of Union County having instructed the prisoner at one o'clock on the day of the homicide that he must provide support for his wife and that if such homicidal desire existed, the prisoner would have killed his wife when alone with her in the woods and would not have waited until he was in his mother-in-law's home,

in the presence of several people, among others, an 18 year old boy, who was standing within a few feet of the shot gun in plain view of the prisoner. Relying almost entirely on this simple fact, the prisoner's sentence has been commuted to life imprisonment.

"It is my conviction and also that of the Commissioner of Pardons, however, that this prisoner is a violent and dangerous man and that he is a man of exceedingly bad reputation. It is a case, in my opinion, where for purely legal reasons, the death penalty should not be inflicted, but, at the same time I am equally convinced that it was one of the most bloody and cruel murders in the annals of North Carolina and for these reasons nothing further should ever be done for the prisoner".

Mental Condition:

The prisoner is feebleminded, a high grade moron. His chronological age is 35 years (1928); his mental age, nine years and 11 months; his basal age, eight years; and his intelligence quotient, 62. The range of his successes in the tests was from the eight to the 14 year group.

CASE X

Prisoner: Negro. b. Bennettsville, S. C., 1903
Charge: First Degree Murder
Sentence: Death
Sentence Commuted to Life Imprisonment
Mental Diagnosis: Feebleminded—Moron Type
Chronological Age: 25 Years (1928)
Mental Age: 9 Years, 3 Months
Intelligence Quotient: 58.

Physical Characteristics:

The prisoner is a tall, slim Negro who weighs 140 pounds. He has dark brown skin. He is 25 years old, having been born at Bennettsville, S. C., in 1903.

Family History:

No trace of any relatives except his father and mother, who were farmers, could be found. The prisoner was the legitimate and only son of his parents.

Education and Occupations:

During all of his early life prior to his coming to North Carolina, he had very little opportunity or encouragement to attend school. As a boy he worked as a share cropper for two white farmers, holding one job for five years and the other for four. He also farmed with his parents.

Habits, Characteristics and Reputation:

Before being charged with murder, the prisoner had no court record, nor had he shown any vicious or criminal tendencies.

Story of the Crime Charged:

The prisoner was charged with having assaulted a white man with a brick, striking him on the head, and causing instant death. The crime

occurred at Red Springs, N. C. Robbery was the motive advanced by the State at the trial.

As he was unable to employ counsel, the Judge assigned lawyers to defend him, who in the short time in which they had to prepare the case faithfully represented his interests.

At the February, 1925, term of Superior Court of Robeson County he was convicted of murder in the first degree and was sentenced to death in the electric chair.

Requests for Commutation:

Immediately after his conviction, evidence that he was of weak mentality was presented to the Governor and requests for commutation of his sentence were urgently pressed by a number of leading citizens of Red Springs. Those requesting commutation included several officers of the law as well as practically all of the county officers, a large number of other citizens of the county who heard the trial, and nearly all of the attorneys practicing at the Robeson County bar. Many of these persons were of the opinion that the prisoner struck his victim with no intention of killing him, but only for the purpose of robbery.

The Judge who presided at the prisoner's trial wrote, urging commutation, as follows:

"From the personal appearance of this boy, from his demeanor on the stand and through the trial, from his replies to questions asked him by me after the verdict, and from the shape of his head, I am satisfied that he is sub-normal, and is, in fact, a moron. I questioned him at some length after the verdict, and he did not know what was happening to him; did not know what the verdict meant and apparently presented a mind that was totally blank. I confess that the infliction of the death penalty in this case would, in my opinion, amount to a species of legal murder. I did not set the verdict aside because I felt certain that the Governor would commute the sentence, and I so stated at the time; and if I had set it aside, I could only send him up for thirty years, while the Governor could make it for life—as it should be. He is not fit to be at large; but he is also not fit to die. I am assured by the Solicitor that he is of the same opinion I am, and feels that the boy ought not to die. He is only eighteen years old and I appeal . . . . for the sake of common humanity to commute his sentence to life imprisonment."

The Solicitor wrote to the Governor as follows:

"I have given this matter the greatest consideration, and while I am thoroughly convinced that he has committed a first degree murder, and a very horrible one, I have reached the conclusion that his sentence should be commuted to life imprisonment, and so recommend to Your Excellency such a course.

"My reason for this is that I have talked with a number of men who have known this man for some years, and with a physician who has known him intimately for five or six years, and a number of men who heard the trial have talked to me, and all of these are of the opinion that the prisoner, although about the age of eighteen or nineteen years, appears really to have the mentality of a child, and they have urged me to make this recommendation to you".

A reputable physician of Robeson County made the following statement under oath:

"I have known the prisoner for the past six years, he together with his father having lived on my place for five years, and have had occasion to observe and have observed both his mental and physical condition. After close observation, I will say that I consider him to be an over-

grown Negro boy with a very weak and undeveloped mind. In my opinion, the average white boy of ten to twelve years of age has a stronger and more developed mind than he does.

"For the above-stated reasons, together with others that could be mentioned, I wish to hereby recommend to the Governor of the State of North Carolina, that you commute the death sentence of the said prisoner to that of life imprisonment".

Another reputable physician wrote to the Governor as follows:

"I am writing to ask the special favor of commuting the prisoner's sentence from that of electrocution to that of life imprisonment. I did not know the young man before the trial but I attended the trial and gave special attention to his statements and attitude during the trial and I am thoroughly convinced that his mental condition is far below normal. I do not think that he realizes the seriousness of the crime committed or the punishment which he must suffer. Since the trial, through disinterested persons who have long known him, I have learned much to strengthen my belief as to his weakness of mind".

The Clerk of the Robeson County Superior Court stated:

"I heard practically all of this trial, and there is no doubt as to the boy's guilt. I was impressed with this boy's low mentality. He appears to be an overgrown simpleton, and I doubt if he even now, realizes the gravity of his condition, and in addition to this, he is rather young to suffer the extreme penalty. I understand that he is about eighteen or nineteen years of age, which I am sure you will take into consideration".

A prominent member of the Robeson County bar also wrote the Governor:

"I was present and heard most of the evidence that was introduced against the defendant, and also heard the statement of the defendant himself. So far as his guilt is concerned, I have no doubt about that. I reached the conclusion, however, without suggestion on the part of anyone, that this defendant ought not to be electrocuted. In my opinion he does not have more intelligence than an average white boy at ten years of age. He had every appearance of being simply an overgrown, ignorant Negro, with very low mentality. If he had been a young man of average intelligence, on account of the horribleness of the crime committed, I would have been the last one to have opposed his being electrocuted, but I do not believe that it is right, morally or legally, to take a young boy up with such low mentality, and because a horrible crime has been committed, electrocute him. No one would say that a white boy, even at fifteen years of age, with average intelligence ought to be electrocuted for any crime that he might commit, and this defendant is very much below even that in his intelligence. I have written this letter without any solicitation on the part of anyone. I am writing simply as a disinterested citizen who is opposed to electrocution, or death penalty, under the facts which I think I have correctly stated in this letter".

In addition to the letters from the above named officials, the Warden of the State's Prison indicated to the Governor that from his observation of the prisoner, he was not "mentally responsible".

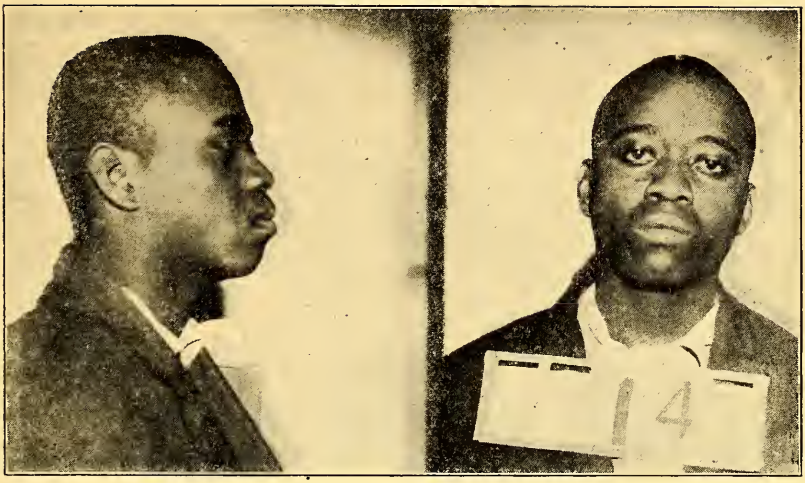
Commutation of Sentence:

Taking into consideration all the facts and circumstances, the Governor issued the following statement: "Notwithstanding the fact that it was known that the petition for commutation was pending, I received letters from only three persons opposing commutation. I do not feel that the death penalty should be imposed in this case; I therefore commute the sentence from death to life imprisonment".

Mental Condition:

The prisoner is feebleminded, of moron type. His chronological age is 25 years (1928); his mental age, nine years and three months; his basal age, eight years; and his intelligence quotient, 58. The range of his successes in the tests given him was between the eight and the 12 year group.

CASE Y



Prisoner: Negro. b. Abbeville, S. C., April 9, 1905
Charge: First Degree Murder
Sentence: Death
Electrocuted February 17, 1928
Mental Diagnosis: Subnormal in General Intelligence and Decidedly Psychopathic
Chronological Age: 23 Years (1928)
Mental Age: 4 Years, 6 Months
Intelligence Quotient: 28.

Physical Characteristics:

The prisoner was five feet, eight and a half inches in height and weighed 150 pounds. He had smooth, light brown skin and brown eyes. He was 23 years old, having been born in Abbeville, S. C., April 9, 1905.

Family History:

The prisoner knew nothing of his paternal grandparents, but said that as he was illegitimate, he took the name of his maternal grandparents both of whom were slaves and died of "old age", so the doctor said. He knows nothing of his other relatives on his father's side except that his father had four brothers and four sisters whose respective ages are: 32, 34, 36, 40, 45, 50, 55, and 65 years. All are living. The prisoner had one sister and one brother, both younger than he.

Education:

He completed the sixth grade at the age of 13 and could read and write. He did not repeat any grade in school and was good in arithmetic. In other subjects he "did pretty good".

Occupations:

He left home for the first time when he was 17 years old, giving as his reason that he "got tired staying home". After leaving home, he worked as a farm hand in Greenwood County, South Carolina, receiving 50 cents a day for his labor.

A first stated that he and the prisoner accosted B; that he (A) shot B, but missed him; that the prisoner then stabbed B in the throat; and

He then worked for another white farmer in the same county, farming on half-shares. His next job was with the Portland Construction Company as a laborer at wages of $2.50 a day. For several seasons he worked for the Farmers' Oil Company in Anderson, S. C., at a daily wage of $2.25. After this he was employed in the card room of a cotton mill in Anderson, receiving $1.50 a day, a job which he held for a year. He was also employed as a concrete worker in road construction near Anderson.

The prisoner led a migratory life, and except when he was employed as a farm hand and as a cotton mill worker he was not able to hold a job for as long as a year at a time. He grew tired of life in South Carolina, and moved to Charlotte, N. C., making his home in what is known as the "Block House" on Palmer Street. After his arrival in Charlotte he met A, another Negro, and they secured employment with the Carolina Concrete and Transfer Company.

Previous Arrests:

The prisoner's name appears many times on the police blotter in Anderson, S. C., and in Augusta, Ga., where he had been arrested for petty crimes. Before he went to Charlotte, he had been arrested in Anderson charged with house-breaking and carrying a loaded pistol. He was found guilty on each charge and was sentenced to 60 days on the city streets or a $200 fine. He chose the sentence, but 14 days after beginning it he escaped, going to Georgia. While he was in Augusta, he was arrested for gambling, found guilty and fined $5.00 which was paid by the manager of the gambling club. The prisoner seemed surprised to learn that the investigator did not know that when police raided a Negro gambling club in Georgia, all fines of those found guilty of gambling are paid by the club management.

Marital Record:

While the prisoner was in Anderson, S. C., he met a woman with whom he lived for six months as man and wife. He said that they soon "broke up". In Augusta, Ga., he lived with another woman who claims that he was the father of her illegitimate child. He soon left this woman and lived with a 19-year-old girl in Augusta. After they had been together for 18 months they agreed to disagree. He then moved to Greenville, S. C., where he met a woman 23 years old whom he married. This marriage lasted for five years, and two children were born, both of whom died at birth. During the period of his marriage a woman of Anderson, S. C., named him as the father of her illegitimate baby who lived five weeks, and also of her one year old boy. She died during the year 1926, and her son lives with his grandmother in Anderson. Another Anderson Negress also named the prisoner as the father of her four year old illegitimate girl. He acknowledged the paternity of all these children and stated that he had from time to time contributed in some measure to their support.

Habits, Characteristics and Reputation:

The habits, characteristics and reputation of the prisoner are indicated in the two preceding sections. He also drank and was a bootlegger on a small scale.

Story of the Crime Charged:

Soon after his arrival in Charlotte, N. C., the prisoner began associating with a bad group, drinking and bootlegging. In Charlotte he met A, and together they planned to hold up B, a white man of Charlotte. B resisted, was shot and instantly killed.

that the two rifled his pockets while their victim bled to death. Immediately after the murder the prisoner and A separated and fled from Charlotte, A going to work on a farm in Davie County where he was later arrested and charged with the murder of B, while the prisoner fled to Rowan County.

The prisoner had met "a New York woman" who invited him to go to Salisbury with her. He spent the day and night with this woman in Charlotte before going to Salisbury, and when they reached Salisbury, friends of the woman from the country met the train and carried her home. The prisoner asked a Negro boy where he could buy some whiskey, and the boy directed him to the home of a white man who told him that he did not have any whiskey, but that he did have some cocaine which was "far better than whiskey". The prisoner gave the white man $2.00 for a small quantity of "snow", and went over to the Negro community, located near a school for Negro youth.

He engaged a room on Bank or Craig Street, he was not sure which, and then visited a small restaurant near the Negro school. While in the restaurant, he was solicited by a woman who made an appointment with him for that night at her home, saying that she was unmarried. After she had left the restaurant, the prisoner got up enough courage to take a few whiffs of the cocaine purchased earlier in the day. He also bought half a pint of whiskey for $1.00 while near the Negro school, carried the whiskey to his boarding place and disposed of it with two women there.

He claimed that he lost his memory soon after this, but when he was closely questioned he succeeded in remembering that he went to some woman's house that night and while he was there a man came in who claimed to be her husband. The man accused the prisoner of trying to take his wife. He apologized by saying he "was sorry", but the woman had told him she was single and had he known she was a married woman he would not have come to the house.

The husband seemed satisfied with this explanation and ordered him out of the house. The prisoner went directly to his lodging. Soon after he got there the husband of the woman with whom he had made the appointment appeared and started to fight. In self-defense the prisoner shot the husband.

In the meantime while he was in Salisbury he had been suspected of knowing something of the killing of B, and a deputy sheriff had attempted to arrest him. The prisoner had thwarted his efforts by shooting the officer who died after lying in a stupor for one day.

With these two shootings behind him the prisoner fled to Spencer, a small town about four miles north of Salisbury. The day after his arrival there a Negro woman in the community, who had learned of the murder of the Deputy Sheriff, reported to the Sheriff the presence of the prisoner, a stranger in the neighborhood. He was speedily arrested, charged with the murder of the Deputy Sheriff, convicted of first degree murder and sentenced to death in the electric chair.

Mental Condition:

The prisoner was 23 years old (1928); his mental age was four years, six months; his basal age and range, three to seven years; and his intelligence quotient, 38. There was great difficulty in making a satisfactory diagnosis in this case. The examiner is of the opinion that the prisoner was never of normal general intelligence, but is doubtful whether there had not been some deterioration, thus making him lower mentally than he was originally. There is no question that, in addition to the prisoner's sub-normality in general intelligence, he was decidedly psychopathic.

CASE Z

Prisoner: Negro. b. Americus, Ga., April 4, 1902
Charge: First Degree Murder
Sentence: Death
Electrocuted June 11, 1926
Mental Diagnosis: Paranoid Dementia Praecox
Chronological Age: 24 Years (1926)
Mental Age: 4 Years, 10 Months
Intelligence Quotient: 30

Physical Characteristics:

The prisoner was five feet, nine inches in height and weighed 161 pounds. He had dark brown skin, brown eyes and black hair. He had a history of syphilis. He was 24 years old, having been born in Americus, Ga., on April 4, 1902.

Family History:

His father is dead, cause of death unknown. His mother is now living in Hartford, Conn., having moved there from Americus, Ga., early in 1921, and first getting work on a tobacco farm. The prisoner was an only son.

Early Home Conditions:

No information could be secured relative to the prisoner's early life.

Occupations:

He accompanied his mother to Hartford in 1921, and got a job as a hotel porter, receiving $22.00 a week, room and board. He soon grew tired of this work, and for two years was engaged as a railroad section hand at wages of $3.00 a day. Until three days prior to his arrest for the crime for which he was electrocuted, he had been working as a laborer with a construction company in the northern part of Rowan County, North Carolina.

Previous Arrests:

While in Hartford, he was arrested, convicted and sentenced to the Connecticut State Prison for not less than three nor more than five years for the crime of assault with intent to commit murder. At the time of his discharge, he was delivered into the custody of the Connecticut Prison Association, as provided by the statutes of that State, and an agent of the association took him to Georgia to an uncle who had agreed to give him employment on his farm and friendly supervision. Soon after he had been placed with this relative, the prisoner wandered away, and was next heard of in Rowan County, North Carolina, where he was arrested for vagrancy and sentenced to the county chain-gang for 30 days. Before he had completed his sentence, his mother paid his fine and he was released.

Marital Record:

The prisoner was unmarried and had been promiscuous in his relations with women for several years.

Habits, Characteristics and Reputation:

He stated that he "used tobacco and drank anything he could get".

The physician of the Connecticut State Prison wrote of him as follows:

"The prisoner was received at the Connecticut State Prison on March 4, 1921, to serve a sentence of not less than three years and not more

than five years. I remember examining him within a few days after his commitment to the institution and had personal observation of him until his discharge.

"As to some dates, I am referring to the institution records to which I have access, though the facts stated other than dates are from my personal memory.

"At the time of my examination of the prisoner, within a few days after his commitment to the institution, I was unable to determine any mental deficiency or other active psychosis. I did find, however, that he was suspicious, evasive, untruthful, emotionally unstable and very erratic. He was unable to make a satisfactory adjustment to the requirements of the institution routine, and within a short time began to come in conflict with other inmates, officers and the rules of discipline of the institution. He had numerous reports for misconduct and was confined in solitary four times between July 1, 1921, and March 29, 1922. During one period of confinement in solitary, he faked an attempt at suicide in order that he might secure his release from solitary confinement. He afterward admitted to me that this attempt at suicide was faked for the purpose mentioned.

"On March 16, 1922, he became very much excited while employed in one of the prison shops and attempted to start a riot. For this insubordination he was confined in solitary confinement from March 16, 1922, to March 29, 1922, on which date he was removed from the solitary and placed in isolation where he remained until July 7, 1922, when he was certified by me as being insane and was committed to the department for insane of the institution. During his confinement in the department for insane, he continued to commit unexpected and unprovoked acts of insubordination and vicious attacks upon officers and other inmates.

"As I stated before, the prisoner was very erratic. At times he would be quiet, well-behaved, agreeable, friendly, honest and seemed to understand his own short-comings. At other times, however, without apparent cause and without provocation, he would become greatly excited, would show complete loss of self-control and for periods lasting from a few hours to several days he would be absolutely irresponsible. During these attacks of excitement and irresponsibility he would be very violent and would attack anyone who came near him and would destroy everything within his reach, which could be destroyed. In the interval between these attacks the prisoner would be apparently normal, but because of the danger to officers, other inmates and the good order and discipline of the institution, and for the man's own good, I advised against his discharge from the department for insane and his transfer to the prison proper. He was accordingly confined in the department for insane until the expiration of his maximum sentence and his discharge from the institution on May 7, 1925".

Story of the Crime Charged:

From Rowan County, North Carolina, the prisoner went to Winston-Salem, engaged rooms at a club, paid part of his dues, and agreed to pay the balance on the following Saturday night. It seems that he located the laundry where Mr. A, his victim, worked, or, at least, there is evidence that he was in that vicinity on the afternoon when the crime was committed, June 13, 1925. He appeared at this laundry while the money was being counted by Mr. A, and while two other employees were present. The prisoner was masked, and upon entering the building, demanded that everyone hold up his hands. Upon Mr. A's failure to do so, the prisoner immediately shot him. He then rifled

the cash drawer, searched the other men, even taking from them the change in their pockets, backed out of the building, and made his escape. He was soon apprehended by the police, brought to trial and convicted of murder in the first degree at the June, 1925, term of the Superior Court of Forsyth County.

New Trial:

The question of the prisoner's mental condition and his responsibility was brought to the attention of the Judge who presided at his trial, and he accordingly set aside the verdict. The Judge stated that he had observed the prisoner carefully and was convinced that he was not unbalanced mentally, but because of his reported confinement in the criminal department of the Connecticut State Prison, and taking into consideration the statement of the Superintendent of the State Hospital for the Insane at Raleigh to the effect that he had had some doubts about the prisoner's mentality, the verdict was set aside and the prisoner was granted a new trial.

Insanity was practically the only defense set up for the prisoner at his second trial. The Superintendent of the State Hospital for the Insane at Raleigh testified that, in his opinion, the prisoner was suffering from the paranoid type of dementia praecox. It was also the opinion of the Chief of Staff of the State Hospital for the Insane at Raleigh, who had the prisoner under observation for some time, that there was no question that he was insane.

Question was also raised by the attorneys for the defense as to why the prisoner was declared insane by the mental experts of the State of Connecticut and confined in the insane department of the Connecticut State Prison until the expiration of his maximum sentence unless he was insane.

In rebuttal the State offered many witnesses who testified that they saw and talked with the defendant while he was at work on the chaingang of Rowan County and at the quarry immediately following his release. Among these witnesses for the State were the chaingang supervisor, a foreman in charge of road construction, the superintendent of the construction company and the Sheriff of the county. The State did not offer nor attempt to offer the testimony of mental experts or other medical men familiar with mental diseases.

The prisoner's second trial resulted in his conviction on the charge of first degree murder and he was sentenced to death in the electric chair.

Opinion of the Supreme Court:

Appeal was made to the State Supreme Court for a new trial. This court only passed upon the question of law, arising on the record. The following extract from the opinion of the Supreme Court is especially interesting in showing the distinction between the medical and legal theories of insanity:

"There is no evidence on this record that defendant had been adjudged insane by a court which recognizes the same standard of sanity as that recognized and enforced in this State; there is evidence that he had been declared insane by the Prison Physician of the State Prison of Connecticut, and in consequence of such declaration had been confined in the insane ward of the State Prison. It cannot be held that the declaration of the Prison Physician, although made in the performance of his official duty, that defendant was then insane, has the force and effect of an adjudication by a court of competent jurisdiction that he was insane and therefore not responsible, under the law of this State, for his acts

subsequently committed herein. It is manifest from this record that the standards and tests of sanity adopted and acted upon by members of the medical profession, who are admitted experts on the subject of mental diseases, differ so radically from those recognized and enforced by the courts of this State, that it cannot be held as a matter of law, that a defendant who has been declared insane by a physician in accordance with standards and as the result of tests recognized and approved by his profession, is exempt from responsibility to the law for his acts, subsequently committed, because of the presumption of the continuance of the mental condition of the patient, at the time of the declaration to the time when the subsequent act was committed in this State. Such declaration although made in the performance of official duty, can be no more conclusive than the opinion of a physician, given by him as a witness, at the trial, that defendant is insane. It is evidence only, to be submitted to the jury. The physician deals with his patient, from the standpoint of the individual, while the courts, in administering the law, must consider the interests of society as well as of the individual. The physician would heal those who are sick, in mind as well as in body, and where the disease is, in his opinion, incurable and may cause his patient to injure himself or others, his duty is to protect the individual as well as others by isolation and confinement, only; the courts, however, are required to act upon the philosophy underlying the right and duty of the State to punish offenders against its laws, and thus not only undertake the reformation of the offender, but also endeavor to deter others from the commission of crime by the fear of like punishment. Whether or not, a prior adjudication that a person is insane, within the meaning of the term "insanity" as defined by the law in this State, accompanied by the presumption of the continuance of such insanity, should be held to affect the rule as to the burden of proof upon the question of sanity, when involved in an issue of guilty or innocence of crime, alleged to have been subsequently committed by the person so adjudged insane, is not presented by this appeal.

"It should be noted that defendant in this action, although contending that when he killed deceased he was insane because of an incurable mental disease, which is progressive in its nature, does not contend that he was insane at the time of his arraignment and trial. His plea was "not guilty"; not that he was unable to plead, because of insanity. The Superintendent of the State Hospital for the Insane (at Raleigh), an admitted expert, whose long experience in his profession and whose high personal character were doubtless considered by the jury, in passing upon the question of defendant's responsibility for his act, testified that in his opinion, while defendant is insane, because suffering from a disease known as dementia praecox of the paranoid type, he knew that his act in shooting deceased was wrong and unlawful, and would probably result in the death of Mr. A. This opinion is well sustained by facts and circumstances which the evidence tends to show.

"We have examined all the numerous assignments of error appearing in this record. Counsel, assigned by the court to advise and aid defendant upon the trial of the issue involving his life and death, have been diligent in the performance of their duty to him and to the court. However, we find no error upon this record. The charge of the court was full, accurate and correct; his instructions as to the law are fully supported by the authorities, and we must affirm the judgment. There is no error".

Following the adverse decision of the Supreme Court on the prisoner's appeal, his attorneys requested a reprieve of 60 days so that they might

have time to present to the Governor their evidence in a plea for life imprisonment on the basis of insanity.

Governor's Statement Refusing Commutation:

The Governor in declining the petition for commutation of sentence from death in the electric chair to life imprisonment, issued the following statement:

"The prisoner was convicted of murder in the first degree at the June, 1925, term of Forsyth County Court. The question of the prisoner's sanity was raised both before the trial and after the verdict of the jury. The trial Judge stated at the time, as a part of the official record, that he had very carefully observed the prisoner, and saw nothing to indicate insanity, but in view of the fact that one of the State's leading alienists had stated to him that he was uncertain as to whether the prisoner was sane or not, and in order that the prisoner's past record might be inquired into, he set the verdict of the jury aside and ordered a new trial.

"The prisoner was later tried and convicted of murder in the first degree, at which time the question of sanity was likewise before the court and jury. The prisoner was ably defended by some of the State's leading lawyers and was given two fair and impartial trials. In both instances the jury found the facts against the prisoner.

"Where a prisoner is given a fair and impartial trial, with full opportunity to present all available facts, I do not conceive it to be the duty of the Executive to set aside the judgment of the court and the verdict of the jury. In this instance the prisoner had the unusual advantage of having had two opportunities of establishing the contentions that are now presented to me, that is, the question of his insanity.

"It seems that the prisoner after being released from prison in Connecticut, fled to the State of Georgia, stayed there a few weeks, returned to Rowan County, served a short sentence on the road, worked for a few weeks in a rock quarry, and went from there to Winston-Salem. A few days after going to Winston-Salem he went to a laundry on a Saturday night, and Mr. A, the deceased, had the money draw open, whereupon the prisoner, while well masked, demanded of Mr. A the money. When it was not readily given to him he shot Mr. A, killing him instantly. He then took all the cash from the cash drawer, and at the point of a pistol required two other employees who were present to give him all the money they had. After making threats of violence against these parties if an outcry was made, the prisoner fled.

"All of these facts indicate clearly to my mind that the prisoner knew well what he was about. Despite the unusual facts against the prisoner, I have had the Commissioner of Pardons to make careful investigation, even to the extent of going to Rowan County and talking with parties where the prisoner had worked. He has likewise talked with the prisoner on several occasions, as have other responsible citizens. The investigation, like the evidence introduced at the trial, sustained the verdict of the jury and the judgment of the court, therefore I have declined to interfere with the sentence".

Just one day before the first anniversary of the murder the prisoner was electrocuted at the State's Prison, Raleigh, June 11, 1926.

Mental Condition:

The statement of the Superintendent of the State Hospital for the Insane at Raleigh in regard to the mental condition of the prisoner which was offered as evidence for the defense at his second trial is as follows:

"I first saw the prisoner some time in June, 1925, after the murder. At the request of his counsel I examined the defendant, first in the jail at Winston-Salem, and later in the State's Prison at Raleigh. I also observed him at different times over a period of five or six weeks. My opinion is that defendant is suffering from a mental disease, known as dementia praecox, of the paranoid type.

"This disease manifests itself in early childhood by peculiarities which differentiate the patient from normal children. It develops through childhood, and manifests itself by definite symptoms in early manhood. The patient is irregular in his habits, and when the disease is of the paranoid type, it frequently manifests itself in criminal tendencies. Persons suffering with the disease have outbursts of passion, they manifest hate and desire to accomplish immoral and illegal things of great variety. It is a chronic and progressive disease, and is frequently accompanied by a tendency to commit murder. In my opinion, this defendant is insane. The type of the disease with which this defendant is suffering is incurable.

"In my opinion, based upon my examination of defendant, in jail at Winston-Salem, and in the State's Prison at Raleigh, defendant was insane on the night of June 13, 1925, the time of the homicide. At intervals the paranoid type of dementia praecox know the difference between right and wrong in a simple way, but I do not think they fully appreciate the nature and consequence of their acts. I do not say that defendant did not have sufficient mental capacity on the night of June 13, 1925, to know right from wrong. He may have known right from wrong, but I do not think he knew the full significance or nature of his act. I think he knew when he presented the pistol at the man, and pulled the trigger that the natural consequence of the act would be to kill the man. I do not think he appreciated the nature and consequences of his act in shooting the deceased, as a normal man would".

Examination by another mental expert revealed the fact that the prisoner's mental age was four years and ten months and his intelligence quotient 30, although his chronological age was 24 years. This examiner declared that it was impossible on the basis of data at hand to give a differential diagnosis, but he stated that there were signs of mental deterioration and general paralysis of the insane. He found marked incoordination in the prisoner who had much difficulty in grasping instructions, and in speaking slurred his last words. He was found to be confused and disoriented for time, and especially for place. This examination disclosed the Romburg sign negative and knee jerks present.